

CONFIDENTIAL
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION
VOLUME II

LIGGETT GROUP, INC.)
PLAINTIFF)
)
-AGAINST-)
)
BROWN & WILLIAMSON TOBACCO)
CORPORATION)
DEFENDANT)
)
BROWN & WILLIAMSON TOBACCO) CIVIL ACTION
CORPORATION) NO. C 84-617-D
PLAINTIFF)
)
-AGAINST-)
)
LIGGETT GROUP, INC. AND)
GENERIC PRODUCTS CORPORATION)
COUNTERCLAIM-DEFENDANTS)

* * * * *

DEPONENT: CARL HEGEP
DATE: AUGUST 21, 1986
REPORTER: CATHERINE M. PATEN

* * * * *

THOMPSON, COULTER, GETTELFINGER & PATEN
COURT REPORTERS
765 STARKS BUILDING
LOUISVILLE, KENTUCKY 40202
(502) 582-1627

824 20580

I N D E X

EXAMINATION BY MR. TOPMAN PAGE 3

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824 20581

APPEARANCES :

BRUCE TOPMAN AND
JAMES CONDREN
ATTORNEYS FOR PLAINTIFF
WEBSTER & SHEFFIELD
ONE ROCKEFELLER PLAZA
NEW YORK, NEW YORK 10020

MARTIN KLOTZ
ATTORNEY FOR DEFENDANT
PAUL, WEISS, RIFKIND, WHARTON
& GARRISON
345 PARK AVENUE
NEW YORK, NEW YORK 10154

* * * * *

THE DEPOSITION OF CARL HEGER, WAS TAKEN ON
BEHALF OF THE PLAINTIFF, BEFORE CATHERINE M. PATEN AND
ALICE TANNENBAUM, NOTARY PUBLICS FOR THE STATE OF
KENTUCKY AT LARGE, IN THE OFFICES OF WOODWARD, HOSSON &
FULTON, 2500 FIRST NATIONAL TOWER, LOUISVILLE, KENTUCKY,
ON AUGUST 21, 1986, AT 9:30 A.M. SAID DEPOSITION WAS
TAKEN PURSUANT TO NOTICE FOR PURPOSES OF DISCOVERY AND
AS PROVIDED BY THE FEDERAL RULES OF CIVIL PROCEDURE.

* * * * *

824 20582

IT IS HEREBY STIPULATED AND AGREED, BY
AND AMONG THE ATTORNEYS FOR THE RESPECTIVE PARTIES
HEREIN, THAT THE SEALING AND FILING OF THE WITHIN
DEPOSITION BE WAIVED; THAT SUCH DEPOSITION MAY BE
SIGNED AND SWORN TO BEFORE ANY OFFICER AUTHORIZED TO
ADMINISTER AN OATH, WITH THE SAME FORCE AND EFFECT AS
IF SIGNED AND SWORN TO BEFORE THE OFFICER BEFORE WHOM
SAID DEPOSITION IS TAKEN.

IT IS FURTHER STIPULATED AND AGREED
THAT ALL OBJECTIONS, EXCEPT AS TO FORM, ARE RESERVED TO
THE TIME OF TRIAL.

* * * * *

824 20583

BY MR. TOPMAN:

Q. LET'S MARK AS HEGER EXHIBIT 32 FOR IDENTIFICATION A DOCUMENT CALLED, "SUMMARY 1985 TRADING PROFIT GENERICS." THE PAGES ARE STAMPED 150071. THE OTHER PAGES ARE 72 THROUGH 75.

(WHEREUPON, HEGER DEPOSITION EXHIBIT 32 WAS MARKED FOR IDENTIFICATION.)

A. OKAY.

Q. CAN YOU IDENTIFY ANY PAGES IN THE EXHIBIT?

A. YES.

Q. WHICH ONES, SIR?

A. I CAN IDENTIFY ALL OF THEM.

Q. YOU RECEIVED A COPY OF ALL OF THEM?

A. YES.

Q. WERE THEY ALL PREPARED IN YOUR DEPARTMENT?

A. YES.

Q. WILL YOU TURN TO THE SECOND NUMBERED STAMP NUMBER PAGE?

A. YES.

Q. IT SHOWS A DATE OF 10-26-1985; CORRECT?

A. YES.

Q. THIS DOCUMENT IS A -- INCLUDES AN THOMPSON, COULTER, GETTELFINGER & PATEN

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824 20584

1 ESTIMATE FOR 1985 TRADING PROFIT FOR GENERICS?

2 A. YES.

3 Q. IT SAYS THERE ARE ESTIMATE
4 SENSITIVITIES AND UNDER THAT LIST FOR ITEMS.

5 WHAT DOES THAT MEAN, ESTIMATE
6 SENSITIVITIES?

7 A. THAT MEANS THAT THOSE LISTED ITEMS
8 WERE SENSITIVITIES THAT MAY OR MAY NOT HAPPEN THAT WILL
9 ALTER THE CURRENT ESTIMATE.

10 Q. AND THE FIRST ONE IS WHAT THE EFFECT
11 ON THE CURRENT ESTIMATE WOULD BE IF BROWN & WILLIAMSON
12 DISCONTINUED ITS 5 PERCENT INCREMENTAL REBATE BEGINNING
13 JULY 1, 1985?

14 A. THAT'S CORRECT.

15 Q. AND THAT WOULD INCREASE THE CURRENT
16 ESTIMATE OF 1985 TRADING PROFIT IF THAT OCCURRED.
17 679,000?

18 A. THAT'S CORRECT.

19 Q. DID YOU HAVE ANY DISCUSSIONS ABOUT
20 THIS ESTIMATE WHICH IS DATED 2-26-1985?

21 MR. KLOTZ: THE WHOLE PAGE OR THE 5
22 PERCENT INCREMENTAL REBATE?

23 MR. TOPMAN: THE WHOLE PAGE.

24 MR. KLOTZ: OKAY.

25 A. YES.

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1 Q. WITH WHOM?

2 A. MR. BACON AND MR. SANDEFUR.

3 Q. DO YOU RECALL WHAT THE SUBSTANCE OF
4 THAT CONVERSATION WAS?

5 A. NO.

6 Q. DO YOU RECALL THAT DURING THE
7 CONVERSATION IT WAS DECIDED THAT B&W WOULD NOT ENTERTAIN
8 THE POSSIBILITY OF DISCONTINUING ITS 5 PERCENT
9 INCREMENTAL REBATE AS OF JULY 1, 1985?

10 A. NO.

11 Q. WOULD YOU LOOK AT THE PRIOR PAGE OF
12 HEGER 32. THAT IS ALSO A 1985 TRADING PROFIT ESTIMATE
13 FOR GENERICS. IS IT NOT?

14 A. IT'S THE IDENTICAL SAME PAGE.

15 Q. EXCEPT IT DOES NOT HAVE THE
16 SENSITIVITY FOR DISCONTINUING THE 5 PERCENT INCREMENTAL
17 REBATE AS OF JULY 1, 1985. IS THAT CORRECT?

18 A. I BEG YOUR PARDON. YOU'RE CORRECT.

19 Q. AND THAT'S WHY IT CARRIES THE WORD
20 REVISED IN THE UPPER LEFT-HAND CORNER. IS IT NOT?

21 A. YES.

22 Q. DO YOU RECALL NOW HAVING ANY
23 DISCUSSIONS WITH EITHER MR. SANDEFUR, MR. BACON OR
24 ANYONE ELSE AT BROWN & WILLIAMSON ABOUT ELIMINATING THAT
25 AS A POSSIBLE SENSITIVITY, NAMELY, DISCONTINUING THE 5

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1 PERCENT INCREMENTAL REBATE AS OF JULY 1, 1985?

2 A. NO.

3 Q. LET'S MARK AS HEGER EXHIBIT 33 FOR

4 IDENTIFICATION 3 PAGES, THE FIRST OF WHICH IS ENTITLED

5 MEMORANDUM FROM MR. HEGER AND MR. FRIGON; COPIES TO MR.

6 ALAR AND SANDEFUR, STAMP NUMBERS 159799 THROUGH 801.

7 (WHEREUPON, HEGER DEPOSITION EXHIBIT

8 33 WAS MARKED FOR IDENTIFICATION.)

9 A. OKAY.

10 Q. CAN YOU IDENTIFY ANY OR ALL OF WHAT'S

11 BEEN MARKED AS HEGER EXHIBIT 33?

12 A. YES, I CAN ALL OF IT.

13 Q. DID YOU DRAFT THE COVER MEMO OF

14 FEBRUARY 27, 1985 TO MR. FRIGON?

15 A. YES.

16 Q. AND THOSE ARE YOUR INITIALS; CORRECT?

17 A. YES.

18 Q. DID YOU SEND THIS MEMORANDUM TO MR.

19 FRIGON?

20 A. AS FAR AS I CAN RECALL, YES.

21 Q. TOGETHER WITH THE ATTACHMENTS THAT ARE

22 A PART OF THE EXHIBIT?

23 A. AS FAR AS I CAN RECALL, YES.

24 Q. AND ALSO COPIES WENT TO MR. ALAR AND

25 MR. SANDEFUR?

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1 A. YES.
2 Q. IF YOU LOOK AT THE THIRD PAGE OF THE
3 DOCUMENT, THAT IS IN TERMS OF THE FIGURES AND THE --
4 WHAT APPEAR THERE IS THE SAME AS THE REVISED 1985
5 TRADING PROFIT GENERICS ESTIMATE WHICH APPEARED AS THE
6 FIRST PAGE OF THE PRIOR EXHIBIT HEGER 32; IS THAT
7 CORRECT?

8 A. YES.

9 Q. AND, THEREFORE, THE 1985 TRADING
10 PROFIT GENERICS ESTIMATE WHICH YOU SENT TO MR. FRIGON
11 AND MR. ALAR AND MR. SANDEFUR DID NOT CONTAIN IN IT THE
12 SENSITIVITY THAT BROWN & WILLIAMSON WOULD DISCONTINUE
13 ITS 5 PERCENT INCREMENTAL REBATE BEGINNING JULY 1, 1985?

14 A. YES.

15 Q. DO YOU RECALL WHETHER IN JUNE OR JULY
16 L&M INCREASED ITS LIST PRICE FOR GENERICS?

17 A. YES.

18 Q. THEY DID THAT BY HOW MUCH; DO YOU
19 REMEMBER?

20 A. I BELIEVE IT WAS A DOLLAR PER
21 THOUSAND.

22 Q. CIGARETTES?

23 A. DOLLAR PER THOUSAND CIGARETTES. I
24 BELIEVE THAT'S WHAT HAPPENED.

25 Q. AND AT THAT TIME DID BROWN &

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1 WILLIAMSON INCREASE ITS LIST PRICE FOR ITS GENERIC
2 CIGARETTES?

3 A. NO.

4 Q. SO THAT ON A LIST PRICE BASIS BROWN &
5 WILLIAMSON WAS A DOLLAR LESS THAN LIGGETT?

6 A. YES.

7 Q. AND, THEREFORE, SALES REVENUES WERE A
8 DOLLAR LESS AS WELL; CORRECT?

9 A. YES.

10 MR. KLOTZ: OBJECT TO THE FORM.

11 Q. IN HEGER EXHIBIT 33, SECOND PARAGRAPH
12 IT REFERS TO 2 RATHER MAJOR BENEFITS OF GENERICS WHICH
13 HAVE NOT BEEN QUANTIFIED?

14 DO THOSE FACTORS APPEAR BROKEN OUT AS
15 BENEFITS IN THE ACCOUNTING RECORDS OF BROWN &
16 WILLIAMSON?

17 A. NO.

18 Q. I SHOW YOU WHAT'S BEEN PREVIOUSLY
19 MARKED AS BACON EXHIBIT 41, MR. HEGER.

20 A. OKAY.

21 Q. CAN YOU IDENTIFY BACON EXHIBIT 41, A
22 MEMO FROM MR. BACON TO MR. SANDEFUR DATED FEBRUARY 28,
23 1985?

24 A. YES.

25 Q. DID YOU RECEIVE THE DOCUMENT?

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A. YES.

Q. IN ITS ENTIRETY?

A. AS FAR AS I CAN REMEMBER, YES.

Q. THE DOCUMENT REFERS TO A CONVERSATION THAT CARL HEGER HAD APPARENTLY WITH MR. FRIGON; IS THAT CORRECT?

A. YES.

Q. DO YOU RECALL DISCUSSING HEGER EXHIBIT 33, NAMELY THE MEMO FROM YOU TO MR. FRIGON WITH MR. FRIGON?

A. I DON'T REMEMBER THE SPECIFICS OF THE CONVERSATION, BUT I'M SURE I DID DISCUSS IT WITH HIM.

Q. YOU DON'T HAVE A RECOLLECTION OF ANY OF THE SUBSTANCE THOUGH?

A. NO.

Q. DO YOU RECALL WHETHER YOU, AFTER SPEAKING WITH MR. FRIGON, YOU DISCUSSED THAT CONVERSATION WITH MR. BACON?

A. YES.

Q. WHAT DID YOU SAY TO MR. BACON IN THAT CONVERSATION AND WHAT DID MR. BACON SAY TO YOU?

A. I TOLD MR. BACON THAT MR. FRIGON WANTED TO INCLUDE ON THE SCHEDULES THAT I REVIEWED WITH HIM THE, YOU KNOW, INVENTORY CARRYING COSTS LIFO BENEFIT AND THE WILSON PROCESSING BENEFIT OF OUR ENTRY INTO THE

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1 GENERIC MARKET.

2 Q. THE INDEPENDENT RECOLLECTION YOU HAVE,
3 MR. HEGER, IS THAT SIMPLY YOU WERE READING FROM THE
4 DOCUMENT BACON EXHIBIT 44 -- 41?

5 A. I'M READING IT FROM THE DOCUMENT, BUT
6 THE EVIDENCE I'M SURE IS EXACTLY WHAT IS CORRECT; THAT
7 THAT IS WHAT I DISCUSSED WITH MR. BACON BECAUSE THAT'S
8 THE ONLY CHANGE MADE TO THE SCHEDULES.

9 Q. MY QUESTION WAS: DO YOU HAVE A
10 RECOLLECTION OF SUCH A CONVERSATION WITH MR. BACON?

11 A. NO, NO.

12 Q. DID YOU DISCUSS YOUR CONVERSATION THAT
13 YOU HAD WITH MR. FRIGON WITH MR. SANDEFUR?

14 A. I DON'T RECALL.

15 Q. DID YOU HAVE ANY DISCUSSIONS WITH
16 ANYBODY AT BROWN & WILLIAMSON ABOUT MR. BACON'S MEMO TO
17 MR. SANDEFUR DATED FEBRUARY 28, 1985, AND PARTICULARLY
18 THE LAST SENTENCE WHICH READS, "WHILE CARL IS PLANNING
19 ON CALLING ME TOMORROW MORNING TO DISCUSS THE FINAL
20 NUMBERS, I THOUGHT YOU MAY WANT TO REFLECT ON THE 1984
21 TRADING PROFIT LOSS IN ADVANCE OF HIS CALL."

22 A. WHAT IS YOUR QUESTION?

23 MR. KLOTZ: DID YOU DISCUSS THE MEMO,
24 IN PARTICULAR THAT SENTENCE OF THE MEMO WITH ANYONE AT
25 BROWN & WILLIAMSON.

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1 Q. RIGHT.
2 A. I DON'T RECALL. I WAS APPARENTLY OUT
3 OF TOWN.

4 Q. TURNING TO THE THIRD PAGE OF THE
5 EXHIBIT 41, THERE IS A SCHEDULE THERE WHICH SHOWS 1984
6 ACTUAL: CORRECT?

7 A. YES.

8 Q. AND IT SHOWS A TRADING PROFIT LOSS OF
9 18 CENTS PER THOUSAND CIGARETTES?

10 A. YES.

11 Q. IN THE MEMORANDUM WHICH IS ATTACHED
12 TO THAT, THERE IS A REFERENCE TO A 1984 TRADING PROFIT
13 LOSS?

14 A. YES.

15 Q. THAT IS A REFERENCE TO THE FIGURE ON
16 THE SCHEDULE OF 18 CENTS PER THOUSAND?

17 A. YES.

18 Q. DO YOU RECALL WHETHER YOU HAD ANY
19 DISCUSSIONS WITH MR. SANDEFUR OR ANYONE AT BROWN &
20 WILLIAMSON REGARDING THE 18 CENTS PER THOUSAND TRADING
21 LOSS ACTUAL FOR 1984?

22 A. NO. I DO NOT RECALL ANY CONVERSATIONS.

23 Q. IN THE 1985 ESTIMATED TRADING PROFIT
24 FOR THE YEAR 1985, DID NON-SPECIFIC MARKETING SPENDING
25 SHOWS DIRECT SELLING COSTS OF \$750,000 DIRECT?

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1 A. YES.

2 Q. AND THAT FIGURE WAS ADDED TO THIS
3 SCHEDULE AND DOES NOT APPEAR ON THE SAME SCHEDULE THAT
4 IS PART OF BACON EXHIBIT 42, WHICH IS YOUR MEMO TO MR.
5 FRIGON?

6 A. CORRECT.

7 Q. I'M SORRY. I MISSPOKE.

8 MR. KLOTZ: LET'S JUST CHECK WHICH
9 ONES WE'RE TALKING ABOUT.

10 Q. OKAY. I MISSPOKE. I'M SORRY. I
11 MISSPOKE. HEGER 33. LET ME ASK THE QUESTION AGAIN
12 BECAUSE IT'S A LITTLE CONFUSING BECAUSE I MISSED THE
13 NUMBER.

14 Q. IN THE 1985 ESTIMATED FIGURES WHICH
15 ACCOMPANIED THE FEBRUARY 25, 1985, MEMO FROM MR. BACON
16 TO MR. SANDEFUR --

17 MR. KLOTZ: BACON 41?

18 MR. TOPMAN: RIGHT.

19 MR. KLOTZ: OKAY.

20 Q. THERE IS A COST OF DIRECT FOR DIRECT
21 SELLING COSTS OF \$750,000.

22 MR. KLOTZ: YOU'RE LOOKING AT PAGE
23 170292?

24 MR. TOPMAN: YES.

25 MR. KLOTZ: GOT YOU.

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1 Q. SEE THAT, MR. HEGER?

2 A. YES.

3 Q. OKAY. THAT WAS IN ADDITION TO THE
4 1985 ESTIMATE WHEN COMPARED TO THE PRIOR 1985 ESTIMATE
5 WHICH WAS PART OF YOUR MEMO TO MR. FRIGON ON FEBRUARY
6 27, 1985, HEGER EXHIBIT 33?

7 A. YES.

8 Q. DOES THAT 750,000-DOLLAR DIRECT
9 SELLING COST REFER TO THE COST OF THE 6 REGIONAL
10 MANAGERS AND MR. HARVEY KERR FOR GENERICS?

11 A. YES.

12 Q. IN 1984, DID MR. HARVEY KERR WORK FOR
13 BROWN & WILLIAMSON?

14 A. YES.

15 Q. AND HE WORKED IN SALES FOR GENERICS
16 OR MARKETING OF GENERICS?

17 MR. KLOTZ: OBJECT TO THE FORM.

18 A. I DON'T RECALL.

19 Q. DO YOU RECALL HOW MANY REGIONAL
20 MANAGERS THERE WERE IN 1984 WITH RESPECT TO MARKETING
21 OF GENERICS?

22 MR. KLOTZ: OBJECT TO THE FORM.

23 A. I DO NOT RECALL.

24 Q. I SHOW YOU WHAT HAS BEEN PREVIOUSLY
25 MARKED AS BACON EXHIBIT 43, MR. HEGER.

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1 A. OKAY.

2 Q. CAN YOU IDENTIFY ANY OR ALL PARTS OF
3 BACON EXHIBIT 43?

4 A. I CAN IDENTIFY THE FIRST PAGE OF BACON
5 43.

6 Q. OKAY. HAVE YOU SEEN ANY OF THE OTHER
7 PAGES?

8 A. NO, NOT THAT I CAN RECALL.

9 Q. I SHOW YOU WHAT HAS BEEN MARKED BACON
10 EXHIBIT 42, A MEMO FROM MR. HEGER TO MR. FRIGON WITH
11 COPIES TO MR. ALAR AND MR. SANDEFUR.

12 A. OKAY.

13 Q. HAVE YOU REVIEWED THE MARCH 1, 1985
14 MEMO FROM YOURSELF TO MR. FRIGON?

15 A. YES.

16 Q. DID MR. BACON SIGN YOUR INITIALS TO
17 THAT?

18 A. YES.

19 Q. WERE YOU IN TOWN IN THIS PERIOD OF
20 TIME?

21 A. NO.

22 Q. WAS THIS MEMO READ TO YOU BEFORE IT
23 WAS SIGNED OFF ON?

24 A. YES.

25 Q. AND YOU APPROVED IT?

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1 A. YES.

2 Q. THERE IS A SENTENCE HERE THAT SAYS,

3 THE SMALL '84 LOSSES IS A RESULT OF THE LAST STICKERING
4 NECESSITATED BY COMPETITIVE REACTION."

5 TO WHOM DID YOU SPEAK ABOUT THAT IF
6 ANYONE IN ORDER TO MAKE THAT STATEMENT?

7 KLOTZ: OBJECT TO THE FORM.

8 A. AT THE TIME THIS MEMO WAS WRITTEN?

9 Q. YES, SIR.

10 A. I DON'T RECALL.

11 Q. DO YOU RECALL SPEAKING TO ANYBODY?

12 A. NO.

13 Q. LOOKING² AT THE ATTACHED SCHEDULE THERE
14 ARE 3 LINE ITEMS BELOW THE LINE AT THE BOTTOM OF THE
15 PAGE. DID YOU SEE THE CALCULATIONS WHICH SUPPORT THOSE
16 FIGURES?

17 A. I DON'T RECALL SEEING THOSE.

18 Q. DO YOU RECALL DISCUSSING THE
19 CALCULATIONS?

20 A. YES.

21 Q. AND WHO DID YOU DISCUSS THEM WITH?

22 A. MR. BACON.

23 Q. WHAT DID HE TELL YOU AND WHAT DID YOU
24 SAY?

25 A. I DON'T RECALL.

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1 Q. DO YOU RECALL -- MR. HEGER?

2 A. YES.

3 Q. DO YOU RECALL FOR 1984 THAT YOU HAD
4 CALCULATED THE LIFO DECREMENT FOR 1984 WAS ON A PLANNED
5 BASIS \$11.2 MILLION?

6 A. YES.

7 Q. OKAY. LOOKING AT THE SCHEDULE AT THE
8 BACK OF BACON 42 WHICH SHOWS TAX SAVINGS DUE TO LIFO
9 DECREMENT OF GOODS WHICH IS, YOU SHOW AS \$5.6 MILLION.
10 WAS THAT OBTAINED SIMPLY BY TAKING 50 PERCENT OF THE
11 \$11.2 MILLION?

12 A. I BELIEVE SO. I BELIEVE THE ANSWER IS
13 YES.

14 Q. YOU USED 50 PERCENT BECAUSE THAT'S --
15 THAT WAS THE TAX RATE?

16 A. YES.

17 Q. IS IT ALSO TRUE THE \$11.2 MILLION
18 LIFO DECREMENT IS CALCULATED BASED UPON BROWN &
19 WILLIAMSON BEING ON THE MULTIPLE POOL LIFO SYSTEM?

20 A. YES.

21 Q. WAS IT ALSO TRUE THAT WHEN YOU
22 CALCULATED THE FIGURE FOR 1984, ACTUAL, THAT BROWN &
23 WILLIAMSON WAS NO LONGER ON THE MULTIPLE POOL SYSTEM BUT
24 HAD CHANGED TO THE NATURAL BUSINESS UNIT METHOD?

25 MR. KLOTZ: OBJECT TO THE FORM

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1 A. THAT IS NOT CORRECT.

2 Q. WHY IS THAT NOT CORRECT, SIR?

3 A. WE DIDN'T MOVE TO THE NATURAL
4 BUSINESS UNIT AS A FINAL DECISION UNTIL THE SUMMER OF
5 1985

6 Q. DID YOU RECORD IN YOUR CONSOLIDATED
7 INCOME STATEMENT ENDING DECEMBER 1984, AN ADJUSTMENT
8 BASED UPON CALCULATING YOUR LIFO EXPENSE USING THE
9 NATURAL BUSINESS UNIT METHOD?

10 A. YES.

11 Q. DID YOU DO THAT PRIOR TO MARCH OF
12 1984?

13 A. YES.

14 Q. AND THAT WAS THE METHOD THAT YOU HAD
15 AT LEAST PRELIMINARILY ADOPTED FOR YOUR LIFO
16 ACCOUNTING?

17 MR. KLOTZ: OBJECT TO THE FORM.

18 A. THE ENTRY WAS STRICTLY ON A
19 PROVISIONAL BASIS.

20 Q. IT WAS THE METHOD YOU HAD
21 PROVISIONALLY ADOPTED FOR 1984?

22 A. YES.

23 Q. OKAY. AND YOU HAD PROVISIONALLY
24 ADOPTED IT AT BROWN & WILLIAMSON PRIOR TO THE TIME YOU
25 PREPARED THE SCHEDULE WHICH IS ATTACHED TO YOUR MEMO OF

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124 20598

1 MARCH 1, 1985

2 A. YES.

3 Q. BUT IN CALCULATING THE TAX SAVINGS DUE
4 TO LIFO DECREMENT AVOIDANCE YOU DID NOT USE A LIFO
5 DECREMENT CALCULATED BASED UPON AN NBU METHOD BUT RATHER
6 ON THE MULTIPLE POOL METHOD; CORRECT?

7 A. YES.

8 Q. IS IT ALSO TRUE THAT YOU PERMANENTLY
9 ADOPTED THE NATURAL BUSINESS LIFO METHOD IN 1985?

10 A. YES.

11 Q. WAS IT JUNE OF 1985?

12 A. I DON'T RECALL THE DATE.

13 Q. IF YOU WOULD LOOK AT BACON EXHIBIT 43,
14 WHICH IS --

15 A. GOT IT.

16 Q. -- MR. BACON'S MEMO TO MR. SANDEFUR.
17 FEBRUARY 28, 1985. AND IF YOU WOULD, LOOK AT THE
18 SCHEDULE ENTITLED WILSON REVISED FIXED COST ALLOCATION
19 RATES JANUARY OF 1985.

20 A. WHAT IS THE NUMBER?

21 Q. 187662 STAMP NUMBER.

22 Q. HAVE YOU EVER SEEN THIS TYPE OF
23 DOCUMENT?

24 A. I DON'T EVER RECALL SEEING THIS TYPE
25 OF DOCUMENT.

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1 Q. WOULD YOU LOOK AT THE NEXT PAGE OF THE
2 EXHIBIT ENTITLED, "WILSON REVISED VOLUMES FOR ALLOCATION
3 OF FIXED COSTS, JANUARY, '85."

4 HAVE YOU EVER SEEN THIS TYPE OF
5 DOCUMENT?

6 A. I DON'T EVER RECALL SEEING THIS TYPE
7 OF DOCUMENT.

8 Q. ALL RIGHT. DO YOU HAVE AN
9 UNDERSTANDING AT ALL ABOUT HOW WILSON AND EXPORT LEAF
10 CALCULATES THE PROCESSING FEE?

11 A. YES, I HAVE A GENERAL UNDERSTANDING.

12 Q. WOULD YOU SHARE IT WITH US?

13 MR. KLOTZ: OBJECT TO THE FORM.

14 A. THE OVERHEADS AT WILSON ARE ABSORBED
15 ON THE POUNDAGE PUT THROUGH THE PLANT ON MACHINE HOURS
16 THAT TOBACCO IS RUN AT WILSON.

17 Q. OKAY. IS THAT THE TOTAL BASIS FOR THE
18 CALCULATION?

19 A. I'M SURE THERE IS MORE TO IT THAN
20 THAT BUT THAT'S THE -- THAT'S THE PRIMARY BASIS FOR THE
21 CALCULATION.

22 Q. COULD YOU READ MR. HEGER'S ANSWER
23 BACK, PLEASE?

24 (WHEREUPON, THE REPORTER THEN READ THE
25 RECORD.)

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024 20600

1 Q. YOU SPEAK TO OVERHEADS. ARE YOU
2 SPEAKING TO BOTH FIXED AND VARIABLE OVERHEADS?

3 A. NOT VARIABLE, NO, JUST FIXED
4 OVERHEADS.

5 Q. WHAT ABOUT THE VARIABLE OVERHEADS, ARE
6 THEY CHARGED?

7 A. VARIABLE OVERHEADS ARE CHARGED AS A
8 VARIABLE EXPENSE.

9 Q. SO TO USE AN EXAMPLE, IF THERE WERE A
10 HUNDRED DOLLARS WORTH OF FIXED OVERHEAD FOR A GIVEN
11 PERIOD OF TIME, AND A HUNDRED POUNDS OF TOBACCO ARE
12 PROCESSED DURING THAT SAME PERIOD OF TIME, THE
13 PROCESSING FEE FOR THE FIXED OVERHEAD ABSORPTION WOULD
14 BE A DOLLAR PER POUND?

15 A. YES.

16 Q. I TAKE IT THAT THE FEE IS ACTUALLY
17 CALCULATED ON A HUNDRED POUND BASIS?

18 A. YES.

19 Q. IS THE WILSON PROCESSING PLANT AN OLD
20 ONE?

21 A. NO.

22 Q. IS IT RELATIVELY MODERN?

23 A. YES.

24 Q. DO YOU KNOW WHAT METHOD OF
25 DEPRECIATION IT USES FOR ITS FIXED ASSETS?

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824 20601

1 A. NOT SPECIFICALLY.

2 Q. DO YOU HAVE ANY GENERAL IDEA? FOR
3 EXAMPLE, IS IT STRAIGHT LINE VERSUS ACCELERATED OF
4 SOMETHING LIKE THAT?

5 A. I WOULD BE GUESSING.

6 Q. ON THE FIXED COST ALLOCATION RATES
7 THAT ARE ON THIS SHEET WHICH IS PART OF THE BACON 43,
8 THERE IS A COLUMN CALLED REVISED FIXED COST.

9 A. ARE YOU LOOKING AT 187663?

10 Q. NO, 62, SIR.

11 A. YES.

12 Q. DO YOU KNOW WHY THE FIXED COSTS ARE --
13 HAVE DIFFERENT LINE ITEMS THERE?

14 MR. KLOTZ: OBJECT TO THE FORM.

15 A. WE'RE TALKING ABOUT DIFFERENT TYPES OF
16 TOBACCO THAT ARE RUN THROUGH THE WILSON PLANT WHERE THE
17 FIXED COST IN SOME CASES CAN BE DIRECTLY ASSIGNED.

18 FOR EXAMPLE, IN TANGLE LEAVES THE
19 CALCULATION IS DIFFERENT THAN FOR STRIPS.

20 Q. THAT'S BECAUSE THEY USE DIFFERENT
21 MACHINERY?

22 A. YES.

23 Q. IS THE FIXED COST ALLOCATION FOR
24 DETERMINING THE FEE LIMITED TO MACHINERY?

25 A. NO.

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1 Q. IT INCLUDES OTHER EXPENSES AS WELL?

2 A. YES.

3 Q. IS THIS SCHEDULE LIMITED TO MACHINERY
4 AND EQUIPMENT?

5 MR. KLOTZ: OBJECT TO THE FORM.

6 A. WOULD YOU REPEAT YOUR QUESTION?

7 Q. IS THIS SCHEDULE LIMITED TO MACHINERY
8 AND EQUIPMENT WHEN IT SHOWS REVISED FIXED COSTS?

9 MR. KLOTZ: IF YOU CAN TELL FROM
10 READING THAT, PLEASE DO, BUT YOU'RE NOT UNDER AN
11 OBLIGATION TO TRY AND FIGURE OUT WHAT THAT SHOWS IF YOU
12 HAVEN'T SEEN THAT TYPE OF CALCULATION BEFORE.

13 A. I REALLY DON'T KNOW.

14 Q. DO YOU HAVE ANY BALLPARK RANGE OF WHAT
15 THE CAPITAL INVESTMENT IN EQUIPMENT IS ON A DEPRECIATED
16 -- NET OF DEPRECIATION FOR WILSON PROCESSING?

17 A. NO.

18 Q. DOES THAT APPEAR ANYWHERE IN THE
19 FINANCIAL STATEMENTS?

20 A. SORRY?

21 Q. DOES IT APPEAR AS A BROKEN OUT ITEM ON
22 THE FINANCIAL?

23 A. YES.

24 Q. WHERE WOULD THAT BE SHOWN, IN THE
25 FINANCIALS?

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1 A. IT WOULD BE SHOWN IN THE FINANCIAL
2 STATEMENTS.

3 Q. DID IT APPEAR ON THE MONTHLY REPORT?

4 A. NO.

5 Q. DOES IT APPEAR IN THE CONSOLIDATED
6 INCOME STATEMENT?

7 A. NO.

8 Q. WHAT KIND OF FINANCIAL STATEMENTS ARE
9 YOU REFERRING TO?

10 A. THE TRIAL BALANCE.

11 Q. I SHOW YOU WHAT HAS BEEN PREVIOUSLY
12 MARKED AS HEGER 4. I THINK THAT'S THE CONSOLIDATED
13 TRIAL BALANCE FOR DECEMBER 31, 1985.

14 A. WHAT IS YOUR QUESTION?

15 Q. WHERE THE ASSETS NET OF DEPRECIATION
16 ARE SHOWN FOR CAPITAL. I GUESS EQUIPMENT AND MACHINERY
17 FOR WILSON PROCESSING.

18 A. IT'S NOT BROKEN OUT IN THIS DOCUMENT.

19 Q. IS THERE A DOCUMENT WHICH BREAKS IT
20 OUT?

21 A. THERE ARE RECORDS WHICH BREAK IT OUT.

22 Q. DO THEY HAVE A NAME? I MEAN, IS THERE
23 A TITLE TO THE PARTICULAR DOCUMENT WHICH WOULD SHOW THAT
24 THE DEPRECIATION, FOR EXAMPLE, AND THE FIGURES FOR THE
25 EQUIPMENT AND MACHINERY FOR WILSON?

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1 A. THE DETAILED CAPITAL ACCOUNTS AND THE
2 DETAILED DEPRECIATION ACCOUNTS WOULD SHOW THIS
3 INFORMATION.

4 MR. TOPMAN: DO WE HAVE THAT, MARTY?

5 MR. KLOTZ: I DON'T KNOW.

6 Q. LET'S MARK AS HEGER EXHIBIT 34 FOR
7 IDENTIFICATION A DOCUMENT TITLED: "GENERIC WEIGHTED
8 AVERAGE COST/PROFITS BY CATEGORY 1985, EXCLUDES MILITARY
9 AND VENDING."

10 (WHEREUPON, HEGER DEPOSITION EXHIBIT
11 34 WAS MARKED FOR IDENTIFICATION.)

12 A. OKAY.

13 Q. IN THE UPPER LEFT-HAND CORNER THERE
14 ARE INITIALS C.J.H. WHICH ARE YOURS?

15 A. APPARENTLY SO.

16 Q. HAVE YOU EVER RECEIVED A COPY OF THIS
17 DOCUMENT?

18 A. YES.

19 Q. OKAY. AND THERE ARE SOME FIGURES
20 THERE. IT SEEMS TO SAY .60 CARRYING COSTS?

21 A. YES.

22 Q. IS THAT YOUR HANDWRITING?

23 A. YES.

24 Q. IS THAT 60 CENTS PER THOUSAND
25 CIGARETTES?

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1 A. YES.

2 Q. THE DOCUMENT SHOWS AT THE TOP

3 QUARTERLY CASE BRACKETS?

4 A. YES.

5 Q. AND THE FIRST ONE, FOR EXAMPLE, IS 0

6 TO 499; CORRECT?

7 A. YES.

8 Q. AND THEN THERE ARE 7 BRACKETS OF CASES

9 ALL THE WAY UP TO 25,000 PLUS?

10 A. YES.

11 Q. THAT REFLECTS SALES VOLUMES BY

12 BRACKET; CORRECT?

13 A. YES.

14 Q. AND THE DISTRIBUTOR REBATES -- I'M

15 SORRY, THE VOLUME REBATES AND SIGN-UP BONUS VARIES FROM

16 EACH CATEGORY OF QUARTERLY CASE SALES?

17 A. YES.

18 Q. AND AS YOU GO UP IN THE QUARTERLY

19 CASE SALES, THE VOLUME REBATE AND SIGN UP BONUS

20 INCREASES?

21 A. YES.

22 Q. THERE IS ALSO ANOTHER EXPENSE OF

23 IMPACT OF INCREASING REBATE ALLOWANCE 5 PERCENT FOR

24 TOTAL YEAR?

25 A. YES.

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Q. AND THAT FIGURE ALSO INCREASES ON A
PER THOUSAND BASIS AS YOU INCREASE FROM ONE SALES
BRACKET TO THE NEXT?

A. YES.

Q. AND THEN THERE IS A LINE FOR ADJUSTED
BRAND CONTRIBUTION; CORRECT?

A. YES.

Q. WHICH IS BASICALLY TAKING THE VARIOUS
EXPENSES THAT ARE LISTED THERE AND SUBTRACTING THEM
FROM THE NET SELLING PRICE?

A. YES.

Q. THE ADJUSTED BRAND CONTRIBUTION,
HOWEVER, DOES NOT TAKE INTO ACCOUNT THE OTHER COSTS TO
BE COVERED WHICH ARE LISTED ON THE DOCUMENT; CORRECT?

A. YES.

Q. AND THOSE TOTAL 94 CENTS PER THOUSAND?

A. YES.

Q. THE OTHER COST TO BE COVERED ALSO DO
NOT REFLECT THE 60 CENT CARRYING COSTS PER THOUSAND
CIGARETTES THAT YOU HAVE NOTED ON THE DOCUMENT; CORRECT?

A. YES.

Q. SO THAT WHEN YOU ADD THE 60 CENTS PER
THOUSAND CARRYING COSTS TO THE TOTAL OF THE OTHER COSTS
TO BE COVERED, THAT BECOMES TOTAL COST OF 1.54 PER
THOUSAND?

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1 A. YES.

2 Q. AND IS IT ALSO CORRECT THAT WHEN YOU
3 SUBTRACT 1.54 FROM THE ADJUSTED BRAND CONTRIBUTION FROM
4 EACH OF THE QUARTERLY CASE SALES BRACKETS IT TURNS OUT
5 THAT 6 OUT OF THE 7 SALES BRACKETS HAVE A LOSS FOR
6 ADJUSTED BRAND CONTRIBUTION?

7 MR. KLOTZ: OBJECT TO THE FORM.

8 A. MY ANSWER WOULD BE NO.

9 Q. WHY IS YOUR ANSWER NO?

10 A. BECAUSE YOU HAVE -- YOU HAVEN'T
11 INCLUDED ALL THE REST OF THE BENEFITS. IF ONE WANTS TO
12 INCLUDE CARRYING COSTS, YOU ALSO HAVE TO INCLUDE OTHER
13 ELEMENTS THAT AREN'T IN THE NORMAL ACCOUNTING SYSTEM.

14 Q. YOU DIDN'T WRITE THOSE DOWN THOUGH,
15 DID YOU?

16 A. NO.

17 Q. SO LET'S JUST STICK FOR THE MOMENT IF
18 WE CAN FOR THE ONES THAT ARE DOWN HERE.

19 IF YOU DO THAT YOU COME OUT WITH 6 OUT
20 OF THE 7 SALES BRACKETS HAVING A LOSS FOR BRAND
21 CONTRIBUTION?

22 MR. KLOTZ: OBJECT TO THE FORM.

23 A. IF YOU WOULD ONLY DO THAT, YES.

24 Q. LET ME SHOW YOU WHAT'S BEEN PREVIOUSLY
25 MARKED AS BACON 57. FIRST PAGE IS A MEMO FROM MR.

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1 CHRISTENSEN TO VARIOUS PEOPLE INCLUDING MR. GAWLEY, MR.
2 RAGONE AND OTHERS. AND THE SUBJECT OF THE MEMO IS
3 GENERIC REBATES REVISED.

4 IF YOU WOULD BE GOOD ENOUGH TO TURN TO
5 THE -- I GUESS THE LAST PAGE OF THIS EXHIBIT, WHICH IS
6 ENTITLED, "GENERIC WEIGHTED AVERAGE COST/PROFITS BY
7 CATEGORY 1985 (EXCLUDES MILITARY AND VENDING)."

8 THAT IS THE SAME SCHEDULE AS YOU'VE
9 JUST TESTIFIED ABOUT WHICH WAS MARKED AS HEGFR EXHIBIT
10 34 EXCEPT WITHOUT YOUR HANDWRITING ON IT; CORRECT?

11 A. YES

12 Q. NOW, LET ME SHOW YOU WHAT'S BEEN
13 PREVIOUSLY MARKED AS BACON EXHIBIT 53.

14 OFF THE RECORD.

15 (DISCUSSION OFF THE RECORD.)

16 MR. KLOTZ: THIS DOCUMENT ON ITS FACE
17 IS DATED 1986, THE END OF FEBRUARY, AND THE ONLY PRIOR
18 TESTIMONY ABOUT IT WAS FROM MR. BACON'S DEPOSITION WHO
19 TESTIFIED THAT HE HAD NEVER SEEN IT AND THAT THIS WAS
20 NOT A REPORT THAT HE REGULARLY RECEIVED. AND ON THE
21 BASIS OF THE DATE ON THE DOCUMENT AND THAT TESTIMONY,
22 WE'RE NOT GOING TO ALLOW QUESTIONS ABOUT THE DOCUMENT
23 BECAUSE IT'S OUTSIDE THE PARAMETERS OF WHAT THE JUDGE
24 SAID FOR THE APPROPRIATE DISCOVERY PERIOD.

25 MR. TOPMAN: OKAY. AS I TOLD MARTY
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1 OFF THE RECORD, THAT WE HAD PRESENTED THIS TO A PRIOR
2 WITNESS WHO HAD BEEN INSTRUCTED NOT TO ANSWER AND WHILE
3 IT CARRIES A STAMP BY SOMEBODY WHO RECEIVED IT IN
4 FEBRUARY OF '86, THE DOCUMENT ON ITS FACE AS AN INTEGRAL
5 PART OF THE DOCUMENT DOES NOT SHOW IN FACT IT WAS
6 PREPARED IN '86

7 MR. KLOTZ: ALTHOUGH IT COULD HARDLY
8 HAVE BEEN PREPARED EARLIER THAN JANUARY 1ST, 1986 SINCE
9 ON THE FACE IT SHOWS DATED THROUGH THE END OF 1985.

10 MR. TOPMAN: ASSUMING THAT'S CORRECT
11 IT SORT OF MAKES THE POINT WHEN YOU HAVE A COMPUTER
12 PRINTOUT, WHICH IS WHAT THIS IS, AND WHICH I ASSUME
13 PRINTED AT LEAST PROBABLY ON A YEARLY BASIS PERHAPS --

14 MR. KLOTZ: YOUR ASSUMPTION HAPPENS TO
15 BE INCORRECT, MR. TOPMAN.

16 MR. TOPMAN: -- THAT IT'S DIFFICULT TO
17 GET A DOCUMENT THAT DEALS WITH A YEAR END RESULTS
18 BECAUSE THEY ARE ALMOST INVARIABLY GOING TO BE PRODUCED
19 FOLLOWING THE CLOSE OF THE YEAR.

20 MR. KLOTZ: THAT'S WHY, MR. TOPMAN.
21 YOUR SIDE AND MY SIDE HAVE AN AGREEMENT ABOUT WHAT
22 DOCUMENTS WILL BE PRODUCED EVEN THOUGH CREATED AFTER THE
23 END OF A FISCAL YEAR. AND THAT AGREEMENT WAS WE WILL
24 PRODUCE TO YOU FINANCIAL STATEMENTS AND DETAILED REPORTS
25 FEEDING INTO FINANCIAL STATEMENTS SHOWING ALL THE

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1 FINANCIAL STATEMENT FIGURES FOR FISCAL 1985, EVEN THOUGH
2 THOSE DOCUMENTS WERE CREATED IN 1986. AND WE HAVE STUCK
3 TO THAT AGREEMENT. IT IS OUTSIDE THE AGREEMENT THAT WE
4 WOULD PRODUCE OTHER DOCUMENTS CREATED IN 1986, MERELY
5 BECAUSE THEY REFER TO FACTS OR EVENTS THAT TOOK PLACE IN
6 1985. I SUGGEST TO YOU YOUR CLIENT HAS TAKEN VERY MUCH
7 THE SAME POSITION.

8 MR. TOPMAN: LET ME JUST RESPOND A
9 LITTLE BIT.

10 NUMBER ONE, I DON'T BELIEVE YOU HAVE
11 PRODUCED FOR US WHAT YOU REFER TO, I GATHER, AS
12 FINANCIAL STATEMENTS, PERIODIC REPORTS OR WHATEVER.

13 MR. KLOTZ: YOU'VE GOT THE DECEMBER
14 1985 FINANCIAL STATEMENT.

15 MR. TOPMAN: I UNDERSTAND THAT, BUT WE
16 DO NOT HAVE ANY SHEETS WHICH BREAK DOWN FOR THE YEAR
17 1985 OR IN FACT 1984, BY A CATEGORY LIKE THIS DOCUMENT
18 DOES AND WE ASKED FOR IT ANY NUMBER OF TIMES, MONTHS AGO
19 AND REPEATEDLY ASKED YOU BY LETTER, AND WE STILL DON'T
20 HAVE IT. AND I THINK IT'S REALLY UNFAIR FOR YOU TO THEN
21 SAY THE ONLY DOCUMENTS YOU HAVE PRODUCED ALONG THE LINES
22 IS, THEREFORE, OUTSIDE THE SCOPE OF DISCOVERY.

23 MR. KLOTZ: THIS DOCUMENT WHICH IS
24 THE ONLY ONE I'M PREPARED TO SPEAK TO RIGHT NOW IS
25 CREATED IN 1986 AND THERE IS NO REASON IN THE WORLD WE

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1 SHOULD BE REQUIRED TO PRODUCE IT. THE JUDGE HAS SAID
2 WE'RE REQUIRED TO PRODUCE DOCUMENTS THROUGH THE END OF
3 1985. LIGGETT HAS DONE THAT, BROWN & WILLIAMSON HAS
4 DONE THAT.

5 MR. TOPMAN: ALL I'M TELLING YOU,
6 MARTY, IF YOU DON'T PRODUCE THE PERIODIC REPORTS THAT
7 BREAK THE BRAND CONTRIBUTION OUT AND THE TRADING PROFIT
8 OUT BY SOMETHING, AND THEN YOU DO PRODUCE A DOCUMENT
9 WHICH YOU CLAIM IS NOT A PERIODIC REPORT BUT BEYOND THE
10 TIME FRAME, YOU HAVE LEFT US WITH NO DISCOVERY. I THINK
11 THAT'S UNFAIR, AND I DON'T THINK IT'S THE SCOPE OF WHAT
12 THE JUDGE HAS SAID.

13 MR. KLOTZ: MR. TOPMAN, IF YOU THINK
14 IT'S UNFAIR I SUGGEST TO YOU YOU GO TO THE JUDGE,
15 MAGISTRATE, SEEK THE APPROPRIATE RELIEF.

16 MR. TOPMAN: THAT'S FINE.

17 MR. KLOTZ: WE HAVE FOLLOWED EXACTLY
18 THE SAME FORMAT OF BOTH PARTIES IN TERMS OF WHAT WE HAVE
19 PRODUCED AND WHAT WE HAVE NOT PRODUCED.

20 MR. TOPMAN: THAT'S FINE. YOU
21 UNDERSTAND WHAT I'M SAYING, MARTY, AND THAT IS VERY
22 SIMPLE. WE ASKED FOR IT MONTHS AGO. WE HAVEN'T GOTTEN
23 IT. AND AS I SAID, WHEN WE HAD THESE DISCUSSIONS PRIOR
24 TO THE JUDGE'S ORDER, I DON'T THINK IT'S RIGHT, I DON'T
25 THINK THE JUDGE IS GOING TO AGREE WITH YOU, AND I THINK

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1 HE'S GOING TO TELL YOU EXACTLY WHAT HE TOLD YOU THE LAST
2 TIME HE DID IT. THAT'S ALL I'VE GOT TO SAY.

3 THE WITNESS: CAN WE TAKE A BREAK?

4 MR. TOPMAN: WE SURE CAN.

5 ((WHEREUPON, A BREAK WAS THEN TAKEN.))

6 Q. I SHOW YOU WHAT HAS BEEN PREVIOUSLY
7 MARKED AS ROEDER 2. DID YOU RECEIVE ROEDER EXHIBIT 2
8 FOR IDENTIFICATION?

9 A. YES.

10 Q. AND AROUND THE TIME IT WAS DATED,
11 FEBRUARY 29, 1984?

12 A. YES.

13 Q. OKAY. WOULD YOU MARK AS HEGER EXHIBIT
14 35 FOR IDENTIFICATION A DOCUMENT WITH A 6-25-'84 DATE,
15 ENTITLED, "1984 GENERICS, SUMMARY OF LOWEST
16 PROFITABILITY."

17 ((WHEREUPON, HEGER DEPOSITION EXHIBIT
18 35 WAS MARKED FOR IDENTIFICATION.))

19 A. OKAY.

20 Q. DID YOU RECEIVE A COPY OF THIS SUMMARY
21 AROUND JUNE 25, 1984?

22 A. MY WRITING IS ON IT. I MUST HAVE.

23 Q. DO YOU RECALL FROM WHOM YOU RECEIVED
24 THIS?

25 A. NO.

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1 Q. DO YOU RECALL ANY DISCUSSIONS YOU MAY
2 HAVE HAD ABOUT IT?

3 A. NO.

4 Q. DID YOU FILE IT IN YOUR FILE?

5 A. I BELIEVE SO.

6 Q. THE MANUFACTURING OVERHEADS OF 50
7 CENTS PER THOUSAND ARE THOSE INCREMENTAL?

8 A. YES

9 Q. ON THE DOCUMENT THERE IT SHOWS A
10 FIXTURE ALLOWANCE OF 35 CENTS PER THOUSAND FOR THE 3
11 CATEGORIES?

12 A. YES.

13 Q. WAS A FIXTURE ALLOWANCE ACCORDED TO
14 THE MILITARY IN 1984 AND 1985? DO THEY GET FIXTURES
15 FROM BROWN & WILLIAMSON?

16 A. I DON'T KNOW.

17 MR. KLOTZ: OBJECT TO THE FORM.

18 Q. LET ME SHOW YOU WHAT HAS BEEN
19 PREVIOUSLY MARKED AS WILSON 41.

20 (WHEREUPON, HEGER DEPOSITION EXHIBIT
21 36 WAS MARKED FOR IDENTIFICATION.)

22 A. OKAY.

23 Q. HAVE YOU EVER SEEN THAT DOCUMENT
24 BEFORE?

25 A. NO, NOT THAT I RECALL.

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1 Q. CAN YOU IDENTIFY THE HANDWRITING?

2 A. NO, I CANNOT.

3 Q. THERE IS NO WAY YOU CAN TELL WHO WROTE
4 THAT DOCUMENT, I GATHER?

5 A. I DON'T IDENTIFY THE HANDWRITING.

6 Q. THANK YOU.

7 LET ME SHOW YOU WHAT'S BEEN MARKED AS
8 HEGER 36 FOR IDENTIFICATION. THE TITLE OF IT IS, "BROWN
9 & WILLIAMSON TOBACCO CORPORATION SUMMARY OF GENERIC
10 TRADING PROFIT," FIRST PAGE 10382. THE OTHER PAGES ARE
11 10383 THROUGH 5.

12 A. I CAN'T READ THIS.

13 Q. I'M JUST GOING TO ADDRESS MY QUESTIONS
14 TO THE FIRST 2 PAGES, MR. HEGER.

15 A. OKAY.

16 Q. HAVE YOU SEEN EITHER OF THE FIRST 2
17 PAGES OF THE EXHIBIT?

18 A. I BELIEVE I HAVE.

19 Q. IN THE UPPER RIGHT-HAND CORNER OF THE
20 FIRST PAGE IT SAYS EXHIBIT 1?

21 A. YES.

22 Q. WHAT IS IT AN EXHIBIT 1 TO; DO YOU
23 KNOW?

24 A. NO, I DO NOT.

25 Q. THE INITIALS AT THE BOTTOM OF THE

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1 PAGE ARE J.L.B.?

2 A. YES.

3 Q. THAT STANDS FOR MP. BRUMLEVE?

4 A. I THINK SO.

5 Q. HE WORKS IN YOUR DEPARTMENT?

6 A. YES.

7 Q. AND HE PREPARED THIS DOCUMENT?

8 A. I ASSUME HE HAS -- HE DID.

9 Q. NOW, THE FIGURES THAT APPEAR ON THE
10 FIRST PAGE ARE FOR OR RELATE TO THE YEAR 1986; CORRECT?

11 A. YES.

12 Q. AND THE LEFT-HAND 2 COLUMNS ARE THE
13 1985 PLAN FOR THE YEAR 1986?

14 A. YES.

15 Q. AND THE OTHER 2 COLUMNS TO THE RIGHT
16 ARE THE AUGUST 1, 1985, ESTIMATE OF WHAT'S GOING TO
17 HAPPEN FOR 1986?

18 A. YES.

19 Q. WOULD YOU TURN TO THE SECOND PAGE OF
20 THE EXHIBIT, SIR? THERE IS HANDWRITING IN THE
21 RIGHT-HAND SIDE OF THE PAGE ABOUT 2/3RDS DOWN.

22 CAN YOU IDENTIFY THE HANDWRITING?

23 A. NO.

24 Q. IN THE TOP PAGE OF THE SCHEDULE THERE,
25 IS --

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Q. LET'S MARK AS HEGER EXHIBIT 37 FOR
IDENTIFICATION 2 PAGES, 127460 THROUGH 61.

(WHEREUPON, HEGER DEPOSITION EXHIBIT
37 WAS MARKED FOR IDENTIFICATION.)

A. OKAY.

Q. DID YOU RECEIVE A COPY OF HEGER
EXHIBIT 37?

A. IT'S DIRECTED TO ME.

Q. YOU GOT A COPY OF IT THEN?

A. I DON'T REMEMBER, BUT I'M SURE I DID.

Q. IT SAYS, "P.S., THE PRO FORMA YOU GAVE
ME IS ATTACHED AT THE BOTTOM OF THE SECOND PAGE."

DO YOU KNOW WHAT PRO FORMA IS BEING
REFERRED TO?

A. YES.

Q. CAN YOU EXPLAIN THAT TO ME?

A. THIS IS FROM WHAT THIS MEMO -- HOW
THIS MEMO READS, THIS WAS A PRO FORMA INCOME STATEMENT
OF A BRAIN-STORMING EXERCISE MADE TO DETERMINE LIGGETT &
MYERS' PROFITABILITY ON GENERICS.

Q. LOOKING AT THE -- SO IT WOULD BE A PRO
FORMA STATEMENT OF LIGGETT & MYERS?

A. YES.

Q. ON THE FIRST PARAGRAPH OF THE DOCUMENT
ON PAGE ONE, IT SAYS, "OBVIOUSLY WE NEED TO REMOVE THE

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1 ONE 1/2 PERCENT EXTRA CASH DISCOUNT FROM SALES REVENUE."

2 THIS IS RELATING TO THE PRO FORMA
3 STATEMENT THAT YOU ALL DID AS TO LIGGETT & MYERS?

4 A. IT MUST, YES.

5 Q. IT DOESN'T RELATE TO BROWN AND
6 WILLIAMSON'S ACCOUNTING RECORDS?

7 A. YES.

8 Q. I'M SORRY?

9 A. YES, YOU ARE CORRECT.

10 Q. THANK YOU. THAT'S WHAT I WANT TO
11 KNOW.

12 LET'S MARK AS HEGER EXHIBIT 38, THE
13 FIRST PAGE IS A MEMO FROM A MR. HINDER, APPEARS TO BE TO
14 MR. HEGER, THOUGH I CAN'T QUITE MAKE IT OUT. STAMP
15 NUMBER IS 159747 AND 48.

16 (WHEREUPON, HEGER DEPOSITION EXHIBIT
17 38 WAS MARKED FOR IDENTIFICATION.)

18 A. OKAY.

19 Q. IS THE MEMORANDUM ADDRESSED TO YOU?

20 A. I BELIEVE IT IS.

21 Q. YOU RECEIVED IT?

22 A. YES.

23 Q. AND THOSE FIGURES TIE INTO THE
24 SCHEDULE WHICH IS ATTACHED TO PART OF BACON EXHIBIT 43?

25 A. IT'S THE SAME PIECE OF PAPER.

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1 Q. OKAY. THE AUTHOR -- WHAT WAS HIS
2 POSITION AT BROWN & WILLIAMSON AT THE TIME WHEN HE WROTE
3 THAT?

4 A. HE WAS IN THE SALES DEPARTMENT BUT
5 I'M NOT CERTAIN WHAT HIS POSITION WAS.

6 Q. LET'S MARK AS NEXT EXHIBIT NUMBER 39.
7 PAGES STAMP NUMBER NO4190 THROUGH 95.

8 (WHEREUPON, HEGER DEPOSITION EXHIBIT
9 39 WAS MARKED FOR IDENTIFICATION.)

10 A. OKAY.

11 Q. CAN YOU IDENTIFY ANY OF THE PAGES IN
12 HEGER EXHIBIT 39?

13 A. NO.

14 Q. NEVER SEEN ANY OF THEM BEFORE?

15 A. I DON'T RECALL EVER SEEING THESE.

16 Q. THAT'S MR. KLINE'S INITIALS ON THAT,
17 SEVERAL OF THESE PAGES I GATHER?

18 A. MR. KLEIN'S HANDWRITING IS ON THESE
19 LAST 4 PAGES.

20 Q. LET'S MARK AS THE NEXT HEGER EXHIBIT
21 NUMBER 40, STAMP NUMBERS J 7877 THROUGH 81. THE FIRST
22 PAGE ENTITLED, "TOBACCO GROUP RONA ANALYSIS."

23 (WHEREUPON, HEGER DEPOSITION EXHIBIT
24 40 WAS MARKED FOR IDENTIFICATION.)

25 A. OKAY.

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1 Q. HAVE YOU EVER SEEN ANY OF THE PAGES
2 IN THIS DOCUMENT?

3 A. MY ANSWER WAS YES -- IS YES.

4 Q. WHICH ONES, SIR?

5 A. BUT I DON'T RECALL SPECIFICALLY WHEN
6 OR HOW.

7 Q. WHICH ONES HAVE YOU SEEN?

8 A. WELL, THEY SEEM TO BE NOTHING THAT
9 GOES TOGETHER. I DON'T SEE WHERE THEY ARE RELATED.

10 Q. THAT'S QUITE POSSIBLE. THAT'S WHY I
11 ASKED YOU IF YOU SAW ANY OF THE PAGES. I DON'T KNOW THE
12 ANSWER TO THAT. THEY ARE CONSECUTIVELY NUMBERED, THAT'S
13 ALL I CAN TELL YOU.

14 A. AND THERE'S NO DATES AS TO WHEN THEY
15 WERE PREPARED.

16 Q. RIGHT.

17 A. SO IT'S VERY DIFFICULT FOR ME TO
18 ADDRESS THESE.

19 Q. BUT YOU RECALL SEEING SOME OF THEM?

20 A. THESE WOULD BE THE TYPE OF SCHEDULES
21 THAT I WOULD GENERALLY SEE, BUT I DO NOT RECALL
22 SPECIFICALLY SEEING ANY OF THESE.

23 Q. IN 1984 BROWN & WILLIAMSON HAD A
24 PROFIT SHARING PLAN?

25 A. YES.

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1 Q. AND THAT'S A LINE ITEM THAT APPEARS
2 BEFORE TRADING PROFIT CALCULATIONS?

3 A. YES.

4 Q. LET'S MARK AS HEGER EXHIBIT 41 FOR
5 IDENTIFICATION, THE FIRST PAGE OF WHICH IS A LETTER
6 DATED OCTOBER 24, 1984, FROM DR. HUGHES TO DEAR FELLOW
7 EMPLOYEE. STAMP NUMBERS ARE 164235 THROUGH 44.

8 (WHEREUPON, HEGER DEPOSITION EXHIBIT
9 41 WAS MARKED FOR IDENTIFICATION.)

10 A. OKAY.

11 Q. FOR 1984 WAS THERE A PERCENTAGE THAT
12 WAS USED TO CALCULATE PROFIT SHARING FOR BROWN &
13 WILLIAMSON?

14 A. NO.

15 Q. CAN YOU DESCRIBE HOW YOU WOULD
16 CALCULATE THE PROFIT SHARING?

17 A. IN WHAT YEAR?

18 Q. '84.

19 A. 1984 PROFIT SHARING WAS CALCULATED TO
20 THE SAME AS EVERY YEAR SINCE THE PROFIT SHARING PLAN HAD
21 BEEN IN EXISTENCE.

22 Q. HOW WAS THAT?

23 A. IT'S A FORMULA BASED ON SALARIES,
24 TOTAL SALARIES, AND A FORMULA OF EARNINGS FOR THE
25 COMPANY.

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1 Q. FOR EXAMPLE, IF YOU LOOK AT THE BACON
2 41. THERE IS A LINE ITEM THAT SHOWS PROFIT SHARING. DO
3 YOU KNOW HOW THAT KIND OF FIGURE IS CALCULATED?

4 A. MAY I SEE THAT?

5 Q. YES.

6 A. MAY I SEE YOUR CALCULATOR?

7 Q. SURE.

8 A. YES, I KNOW.

9 Q. COULD YOU EXPLAIN THAT?

10 A. IT'S 6 PERCENT OF PROFIT BEFORE
11 TRADING PROFIT.

12 Q. THAT'S FOR '84?

13 A. YES.

14 Q. WHEN YOU SAY 6 PERCENT OF PROFIT
15 BEFORE TRADING PROFIT, THAT MEANS BEFORE ALL THE ITEMS
16 THAT ARE ON THIS SCHEDULE THAT APPEAR ABOVE PROFIT
17 SHARING THE NET OF THAT NUMBER: IS THAT RIGHT?

18 A. REPEAT THAT STATEMENT.

19 Q. SURE. WHEN YOU SAY 6 PERCENT OF
20 TRADING PROFIT, ON THE SCHEDULE THAT WE WERE
21 DISCUSSING, FOR EXAMPLE, ATTACHED TO FEBRUARY 28, 1985,
22 THE 1985 PROJECTED GENERIC TRADING PROFIT, THAT WOULD
23 MEAN THE NET OF THE ITEMS THAT APPEAR BEFORE THE LINE
24 ITEM PROFIT SHARING?

25 A. YES.

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1 Q. ARE THERE ANY OTHER ITEMS THAT WOULD
2 NORMALLY GO INTO THE CALCULATION OF THE FIGURE ON WHICH
3 YOU TAKE 6 PERCENT?

4 A. NO.

5 Q. OKAY. FOR 1985, DO YOU KNOW HOW IT
6 WAS CALCULATED?

7 A. YES.

8 Q. HOW WAS THAT CALCULATED?

9 A. IT'S 3 PERCENT.

10 Q. OF THE SAME FIGURES?

11 A. YES, RIGHT.

12 Q. SAME CATEGORY OF FIGURES?

13 A. RIGHT.

14 Q. AND I THINK -- IS THAT THE USUAL SORT
15 OF RULE OF THUMB WAY THAT'S USED TO CALCULATE PROFIT
16 SHAPING FOR THESE KINDS OF STATEMENTS?

17 A. YES.

18 Q. CAN WE MARK AS HEGER EXHIBIT 42.

19 PLEASE, A DOCUMENT, THE FIRST PAGE IS A MEMORANDUM DATED
20 OCTOBER 10, 1985 FROM MR. BRUMLEVE TO MR. HEGER AND A
21 NUMBER OF OTHERS.

22 THE MEMORANDUM IS STAMP NUMBER 207720
23 AND THE SECOND PAGE OF THE EXHIBIT IS 21.

24 (WHEREUPON, HEGER DEPOSITION EXHIBIT
25 42 WAS MARKED FOR IDENTIFICATION.)

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1 A. OKAY.
2 Q. DID YOU RECEIVE A COPY OF HEGER
3 EXHIBIT 42?
4 A. YES.
5 Q. WITH THE ATTACHMENT?
6 A. YES.
7 Q. AND THAT'S MR. BRUMLEVE'S SIGNATURE?
8 A. I ASSUME SO.
9 Q. OKAY. AND THE ATTACHMENT TO THE
10 MEMORANDUM IS THE APPROVED 1986 BUDGET POSITION FOR
11 GENERICS?
12 A. AS OF OCTOBER THE 10TH THAT WAS THE
13 BUDGET FOR 1986.
14 Q. OKAY. DID IT SUBSEQUENTLY CHANGE IN
15 1985?
16 A. IT MAY HAVE.
17 Q. YOU DON'T RECALL?
18 A. I DON'T RECALL, BUT IT MAY HAVE.
19 Q. MARK AS HEGER EXHIBIT 43 FOR
20 IDENTIFICATION 3 PAGES, THE FIRST OF WHICH IS DATED
21 NOVEMBER 20, 1985. IT'S FROM MR. BRUMLEVE TO MR. WILSON
22 AND IT SHOWS IN THE UPPER RIGHT-HAND CORNER IN
23 HANDWRITING A COPY WAS GIVEN TO MR. HEGER AND OTHERS,
24 STAMP NUMBERS 198653.

25 (WHEREUPON, HEGER DEPOSITION EXHIBIT
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1 43 WAS MARKED FOR IDENTIFICATION.)

2 A. OKAY.

3 Q. DID YOU RECEIVE A COPY OF THE
4 MEMORANDUM?

5 A. I DON'T RECALL RECEIVING THIS.

6 Q. ON THE SECOND PAGE THERE IS A
7 SIGNATURE THAT APPEARS TO BE MR. BRUMLEVE'S SIGNATURE.

8 A. I DON'T KNOW MR. BRUMLEVE'S
9 SIGNATURE. AS I TESTIFIED EARLIER I WOULD ASSUME THAT
10 IS HIS SIGNATURE.

11 Q. ON THE LAST PAGE OF THE DOCUMENT, DO
12 YOU RECOGNIZE ANY OF THE FIGURES THERE?

13 A. YES.

14 Q. WHICH ONES?

15 A. THE QUANTITIES OF 8.6 BILLION UNITS.
16 THOSE WERE OUR BUDGETED QUANTITIES THAT WE HAD FOR 1985
17 AND WHICH WAS THE ESTIMATE FOR MOST OF THE YEAR 1985.
18 AS FAR AS THE OTHER NUMBERS, I CAN'T SAY I RECOGNIZE ANY
19 OF THEM.

20 Q. DO YOU RECOGNIZE --

21 A. FROM MEMORY.

22 Q. SORRY. DO YOU RECOGNIZE THE VOLUMES
23 AS BROKEN OUT BY CATEGORY?

24 A. NO. I DO NOT.

25 Q. I'M GOING TO REITERATE OUR REQUEST FOR
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1 THOSE KIND OF DOCUMENTS, MARTY, THAT SHOW THE CATEGORY
2 SALES, SUCH AS GPC OR MILITARY THAT KIND OF THING. AND
3 THAT'S FOR BOTH 1984 AND 1985?

4 MR. KLOTZ: YOU HAVE GOTTEN EVERY
5 DOCUMENT FROM OUR FINANCE PEOPLE THAT EXISTS THAT
6 PERTAINS TO GENERICS IN OUR JUDGMENT, AND YOU'VE HAD AN
7 OFFER TO GO IN THERE AND LOOK FOR ANYTHING ELSE. I CAN
8 ONLY TELL YOU THAT IF YOU DO NOT HAVE ANY HARD COPY, I
9 AM INCLINED TO THINK IT DOES NOT EXIST, BUT IF IT DOES
10 YOU'VE ALREADY HAD OUR INVITATIONS TO COME IN AND LOOK
11 FOR IT.

12 MR. TOPMAN: YOU UNDERSTAND, I THINK,
13 JIM IN HIS LETTER TO MR. GREEMAN POINTED THOSE DOCUMENTS
14 OUT AND --

15 MR. KLOTZ: YOU KNOW, I'M REALLY NOT
16 INTERESTED. IN ALL HONESTY, WHAT MR. CONDREN REQUESTED
17 OF ANYBODY AT THIS POINT. WE'VE HAD AN UNENDING LIST OF
18 REQUESTS FROM MR. CONDREN. EVERY RESPONSE GENERATES 6
19 MORE REQUESTS. AND AS I SAID YESTERDAY, WE DECIDED TO
20 PUT AN END TO THAT ONCE AND FOR ALL BY OFFERING TO YOU
21 ABOUT 6 WEEKS AGO, IF YOU WANT MORE COST DOCUMENTS WE
22 WILL MAKE THE ENTIRE DEPARTMENT'S FILES AVAILABLE TO YOU
23 DRAWER BY DRAWER AND THEN, YOU KNOW, IF YOU WANT
24 SOMETHING YOU CAN GET IT. I DON'T KNOW ANY OTHER WAY TO
25 SATISFY THE DEMANDS YOU'VE MADE.

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1 MR. TOPMAN: WELL, I DON'T WANT TO GET
2 INTO -- WE HAD THIS DISCUSSION YESTERDAY, AND SINCE I
3 DIDN'T HAVE THE CONVERSATION WITH YOU I'M NOT IN A
4 POSITION TO RESPOND ONE WAY OR ANOTHER TO YOU. I AM IN
5 A POSITION HEARING WHAT JIM SAID YESTERDAY HE WENT TO
6 WALTER AND ASKED FOR THE DOCUMENTS. NOW, I DON'T WANT
7 TO WASTE TIME.

8 MR. KLOTZ: NO, BUT THAT'S NOT THE WAY
9 IT WORKS. WE'RE NOT YOUR ERRAND BOYS. YOU DON'T, JUST
10 ANY TIME YOU WANT SOMETHING, SAY, "OH, BY THE WAY WE
11 WOULD LIKE THIS."

12 MR. TOPMAN: HE WENT OVER TO THE
13 COMPANY HEADQUARTERS.

14 MR. KLOTZ: RIGHT. YOU GET TO MAKE
15 REQUESTS FOR DOCUMENTS AND WE RESPOND. YOU MADE A
16 REQUEST FOR ALL DOCUMENTS RELATING TO COSTS AND WE SAID,
17 "THEY ARE ALL THERE, TELL US WHEN YOU WANT TO COME SEE
18 THEM," AND THE --

19 MR. TOPMAN: JIM WENT.

20 MR. KLOTZ: NO, YOU HAVEN'T DONE IT
21 YET.

22 MR. TOPMAN: JIM WENT TO THE COMPANY
23 HEADQUARTERS.

24 MR. KLOTZ: I UNDERSTAND THAT.

25 MR. TOPMAN: WITH WALTER FOR THOSE

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1 DOCUMENTS.

2 MR. KLOTZ: THAT'S RIGHT. AND HE
3 ASKED WALTER SPECIFICALLY TO LOOK FOR THEM, AND HAD I
4 BEEN THE PERSON WHO GOT THAT REQUEST, I WOULD HAVE GIVEN
5 A DIFFERENT RESPONSE.

6 MR. TOPMAN: YOU WEREN'T.

7 MR. KLOTZ: THAT'S RIGHT, BUT WALTER
8 SAID HE WOULD AND I UNDERSTAND THERE ARE NO SUCH
9 DOCUMENTS, BUT IF YOU DON'T ACCEPT THAT
10 REPRESENTATION --

11 MR. TOPMAN: IF THAT'S --

12 MR. KLOTZ: YOU ARE WELCOME TO COME
13 IN AND LOOK DOCUMENT BY DOCUMENT WHAT'S THERE. AND YOU
14 HAVE BEEN WELCOMED TO DO THAT FOR 6 WEEKS, AND I DON'T
15 WANT TO HEAR ANY MORE ABOUT WHAT DOCUMENTS WE HAVE AND
16 HAVE NOT PRODUCED ON THE COST SIDE.

17 MR. TOPMAN: WELL, YOU MAY NOT WANT TO
18 BUT YOU'RE GOING TO.

19 MR. KLOTZ: I HAVE NO DOUBT ABOUT
20 THAT.

21 MR. TOPMAN: BECAUSE THEY HAVE NOT
22 BEEN PRODUCED.

23 MR. KLOTZ: MR. TOPMAN, EVERY DOCUMENT
24 IN THE FINANCE DEPARTMENT HAS BEEN AVAILABLE FOR YOUR
25 REVIEW BEGINNING 6 WEEKS AGO. SO THAT MEANS THAT EVERY

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1 COST-RELATED DOCUMENT YOU COULD POSSIBLY HAVE REQUESTED
2 HAS BEEN AVAILABLE FOR YOU.

3 MR. TOPMAN: OKAY. WELL, AS I SAID,
4 YOU HAD THAT CONVERSATION, YOU SAY, WITH MR. BARKER?

5 MR. KLOTZ: THAT'S CORRECT, AND I HAVE
6 NOT HEARD ANYBODY --

7 MR. TOPMAN: I'M NOT IN A POSITION TO
8 RESPOND TO IT.

9 MR. KLOTZ: -- SAY IT DIDN'T DIDN'T
10 PLACE.

11 Q. THAT'S BECAUSE I DIDN'T HAVE THE
12 CONVERSATION WITH YOU. I REALLY DON'T WANT TO WASTE
13 TIME. YOU'VE GOT MY POINT. THAT'S WHAT I WANTED TO
14 SAY.

15 LET'S MARK AS HEGER EXHIBIT 44 A
16 DOCUMENT WITH STAMP NUMBERS 198601 THROUGH 7, FIRST PAGE
17 IS DATED OCTOBER 1, 1983. IT SHOWS IN THE UPPER
18 RIGHT-HAND CORNER A COPY GIVEN TO C.J.H.

19 (WHEREUPON, HEGER DEPOSITION EXHIBIT
20 44 WAS MARKED FOR IDENTIFICATION.)

21 A. OKAY.

22 Q. DID YOU RECEIVE A COPY OF HEGER
23 EXHIBIT 44 OR ANY PART OF IT?

24 A. YES.

25 Q. DID YOU RECEIVE THE WHOLE THING?

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1 A. I BELIEVE SO, YES.

2 Q. DID IT REFLECTS A PROPOSAL BY BROWN &
3 WILLIAMSON TO SPEND ROUGHLY \$14 1/2 MILLION FOR 5 HIGH
4 SPEED PROTUS MAKERS; CORRECT?

5 A. RIGHT.

6 Q. AND THIS WAS REQUESTED IN OCTOBER OF
7 1985?

8 A. YES.

9 Q. DO YOU KNOW WHETHER THE APPROVAL WAS
10 MADE ON THAT PURCHASE?

11 A. YES, IT WAS.

12 Q. OKAY. AND DID BROWN & WILLIAMSON GO
13 AHEAD AND MAKE ARRANGEMENTS TO BUY THOSE MACHINERY?

14 A. YES.

15 Q. THAT MACHINERY WAS GOING TO BE
16 INSTALLED IN MACON; IS THAT RIGHT?

17 A. YES.

18 Q. LET'S MARK THIS AS HEGER EXHIBIT 45
19 FOR IDENTIFICATION.

20 (WHEREUPON, HEGER DEPOSITION EXHIBIT
21 45 WAS MARKED FOR IDENTIFICATION.)

22 A. OKAY.

23 Q. CAN YOU IDENTIFY THIS DOCUMENT?

24 A. NOT SPECIFICALLY, NO.

25 Q. DO YOU RECOGNIZE THE HANDWRITING?

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1 A. NO.

2 Q. I JUST WANT TO ASK YOU 1 OR 2 THINGS
3 MORE ABOUT HEGER 13, IF I COULD.

4 THIS IS THE MEMO RESPECTING THE
5 MEETING THAT YOU PREVIOUSLY TESTIFIED ABOUT ON MARCH 16,
6 1984. THE MEMO LISTS A MR. OLIVER AS ATTENDING THAT
7 MEETING. DO YOU KNOW WHO HE WAS, SIR?

8 A. YES, AS I TESTIFIED YESTERDAY HE'S THE
9 DIRECTOR OF TAX AT B.A.T.U.S.

10 Q. SORRY. I ASKED THAT BEFORE.

11 AND MR. FRANCESCONI?

12 A. YES.

13 Q. DID HE ATTEND THE MEETING?

14 A. THIS DOCUMENT SAYS HE DID SO I ASSUME
15 HE DID.

16 Q. DO YOU RECALL HIM BEING THERE?

17 A. NO.

18 Q. DO YOU RECALL, DO YOU KNOW WHO HE IS?

19 A. YES.

20 Q. WHO WAS HE?

21 A. HE WAS MR. OLIVER'S ASSISTANT AT THAT
22 TIME, AND HE WORKED IN THE TAX DEPARTMENT AT B.A.T.U.S.

23 Q. OKAY. WHEN YOU RECEIVED THIS
24 MEMORANDUM FROM MR. D.A. SCHECHTER, DO YOU RECALL
25 DISAGREEING WITH ANYTHING IN IT THAT WAS REPORTED AS

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1 HAPPENING AT THE MEETING?

2 MR. KLOTZ: OBJECT TO THE FORM.

3 A. WOULD YOU REPEAT THAT QUESTION?

4 Q. SURE. WHEN YOU RECEIVED THE
5 MEMORANDUM, HEGER EXHIBIT 13, DO YOU RECALL WHETHER YOU
6 DISAGREED WITH ANYTHING IN IT INSOFAR AS IT REPORTED
7 WHAT HAPPENED AT THE MEETING ON MARCH 16, 1984?

8 MR. KLOTZ: OBJECT TO THE FORM.

9 A. I DON'T RECALL ANYTHING.

10 Q. WHAT'S YOUR OBJECTION?

11 MR. KLOTZ: I THINK IT'S IMPROPER TO
12 ASK WITH RESPECT TO THIS LONG A DOCUMENT WHETHER HE
13 DISAGREED WITH ANYTHING IN IT EITHER NOW OR AT THE TIME.

14 Q. HAVE YOU EVER MET HERB PEASE?

15 A. YES.

16 Q. HE'S HEAD OF GPC?

17 A. YES.

18 Q. WHEN DID YOU FIRST MEET MR. PEASE?

19 A. IN THE SUMMER OF 1985.

20 Q. HAD YOU SPOKEN BY TELEPHONE WITH HIM
21 PRIOR TO THAT?

22 A. NO.

23 Q. DO YOU RECALL WHERE THAT MEETING
24 OCCURRED?

25 A. YES.

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1 Q. WHERE WAS IT?

2 A. BROWN & WILLIAMSON.

3 Q. WHO ELSE WAS PRESENT AT THE MEETING AT
4 BROWN & WILLIAMSON WITH WILLIAM M. PEASE?

5 A. I CAN ONLY GIVE YOU A PARTIAL LIST.
6 MR. SANDEFUR, MR. BUTLER, MR. PEBBELS, MR. PEASE, OF
7 COURSE, A CONSULTANT FOR MR. PEASE, A MAN BY THE NAME OF
8 JIM NELSON -- DID I SAY MR. PEBBELS?

9 Q. YES.

10 A. THIS IS ALL I CAN RECALL.

11 Q. ALL RIGHT. PRIOR TO THAT MEETING HAD
12 YOU MET WITH MR. NELSON?

13 A. NO.

14 Q. HAD YOU SPOKEN WITH MR. NELSON BY
15 TELEPHONE?

16 A. NO.

17 Q. PRIOR TO THAT MEETING DO YOU KNOW
18 WHETHER ANYBODY AT BROWN & WILLIAMSON HAD MET WITH MR.
19 PEASE OR MR. NELSON?

20 A. NO.

21 Q. DO YOU KNOW WHETHER ANYBODY FROM
22 BROWN & WILLIAMSON PRIOR TO THAT MEETING HAD SPOKEN
23 WITH MR. PEASE OR MR. NELSON?

24 A. YES.

25 Q. CAN YOU TELL ME WHO, PLEASE?
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1 A. MR. SANDEFUR.
2 Q. AND WITH WHOM DID MR. SANDEFUR SPEAK?
3 A. MR. NELSON.
4 Q. WAS THAT BY TELEPHONE?
5 A. YES.
6 Q. DID MR. SANDEFUR RELATE THE
7 CONVERSATION TO YOU AFTER IT WAS OVER?
8 A. YES.
9 Q. DO YOU REMEMBER WHEN THAT TELEPHONE
10 CONVERSATION TOOK PLACE?
11 A. ARE YOU TALKING ABOUT MONTH, DATE?
12 Q. AS CLOSE AS YOU CAN GET.
13 A. I WOULD SAY SOMETIME IN THE MAY,
14 APRIL, MAY, JUNE TIME FRAME OF 1985.
15 Q. OKAY. WHAT DID MR. SANDEFUR TELL YOU
16 ABOUT HIS CONVERSATION WITH MR. NELSON?
17 A. THAT MR. NELSON CALLED HIM AND WAS
18 CURIOUS WHETHER BROWN & WILLIAMSON WOULD BE INTERESTED
19 IN DISCUSSING THE MANUFACTURE OF GPC CIGARETTES.
20 Q. AND DID MR. SANDEFUR TELL YOU WHAT
21 HIS RESPONSE WAS?
22 A. HIS RESPONSE WAS THAT HE WOULD GET
23 BACK TO MR. NELSON.
24 Q. AND DO YOU KNOW WHETHER MR. SANDEFUR
25 DID GET BACK TO MR. NELSON?

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1 A. BETWEEN THEN AND THE MEETING I
2 REFERRED TO EARLIER IN MY TESTIMONY, I'M FOGGY AS TO THE
3 EVENTS.

4 Q. WHAT WAS YOUR UNDERSTANDING OF THE
5 PURPOSE OF THE MEETING AT BROWN & WILLIAMSON?

6 A. THE PURPOSE OF THE MEETING WAS TO SEE
7 IF IT WOULD BE MUTUALLY ACCEPTED BY BROWN & WILLIAMSON
8 AND GPC THAT BROWN & WILLIAMSON WOULD BECOME A SUPPLIER
9 OF GPC GENERIC CIGARETTES.

10 Q. AND PRIOR TO THAT MEETING DID YOU DO
11 ANY PREPARATION FOR IT?

12 A. YES.

13 Q. AND WHAT WAS THE KIND OF PREPARATION
14 YOU DID?

15 A. IT WAS FINANCIAL ANALYSIS PREPARATION.

16 Q. DID YOU DO AN ANALYSIS OF GPC?

17 A. NO.

18 Q. AT THE MEETING DID YOU MAKE AN OFFER
19 TO GPC WITH RESPECT TO A REBATE ON CIGARETTES OF GPC'S
20 SHOULD BROWN & WILLIAMSON BECOME A SUPPLIER?

21 A. YES.

22 Q. AND WHAT WAS THAT?

23 A. A DOLLAR 5 CENTS A CARTON.

24 Q. DID YOU OR ANYBODY AT THE MEETING ON
25 BEHALF OF BROWN & WILLIAMSON TELL MR. PEASE HOW LONG

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1 THAT OFFER WOULD LAST?

2 A. ~~YES~~

3 Q. AND HOW LONG?

4 A. UNTIL JUNE OF 1985.

5 Q. NOW, THE MEETING WAS IN THE SUMMER OF
6 '85?

7 A. I'M SORRY, RETRACT THAT. IT WAS UNTIL
8 JUNE OF 1986.

9 Q. AND SUBSEQUENTLY DID YOU AT BROWN &
10 WILLIAMSON RECEIVE A LETTER FROM MR. PEASE RESPECTING
11 THAT MEETING?

12 A. AS FAR AS THAT MEETING WE MAY HAVE.
13 BUT I DON'T SPECIFICALLY RECALL.

14 Q. OKAY. LET ME SHOW YOU WHAT'S BEEN
15 PREVIOUSLY MARKED AS BUTLER EXHIBIT 1.

16 A. OKAY. YOU'VE SEEN A COPY OF BUTLER 1
17 WHICH IS A LETTER FROM MARKETING MANAGEMENT TO MR.
18 SANDEFUR.

19 A. YES.

20 Q. ALL RIGHT. AND DOES BUTLER 1 HAVE
21 YOUR HANDWRITING ON IT?

22 A. YES.

23 Q. ON PAGE 2 THERE'S A 4TH PARAGRAPH DOWN
24 WHICH STATES, "M.M.I. AND GPC WILL BE RESPONSIBLE FOR
25 MAILING VOLUME INCENTIVES TO THOSE CUSTOMERS INVOICED BY

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1 B&W. THE VOLUME INCENTIVE RATES ARE --" THEN IT GIVES
2 THE QUARTERLY CASE SALES AND A VOLUME INCENTIVE AND
3 CENTS PER CARTON; CORRECT?

4 A. (NODDED HEAD AFFIRMATIVELY.)

5 Q. NEXT TO THAT IS A LIST OF FIGURES, AND
6 YOU WROTE THOSE FIGURES?

7 A. THAT'S MY HANDWRITING.

8 Q. DO THOSE FIGURES REPRESENT THE 5
9 PERCENT BONUS WHICH IS REFERRED TO ON HEGER 34?

10 A. I ASSUME THEY DO.

11 Q. NOW, IN THE TYPED COLUMN YOU HAVE
12 DRAWN A LINE AND THEN WRITTEN THE WORD PUBLISHED WHEREAS
13 IN THE HANDWRITTEN COLUMN THERE IS NO LINE GOING TO THE
14 WORD PUBLISHED. DOES THAT MEAN THAT YOU BELIEVE THAT
15 THE TYPED COLUMN WAS PUBLISHED TO BROWN & WILLIAMSON
16 CUSTOMERS GENERALLY AND THAT THE HANDWRITTEN COLUMN WAS
17 NOT?

18 MR. KLOTZ: OBJECT.

19 A. I DON'T RECALL.

20 Q. YOU DON'T RECALL WHY YOU WROTE
21 PUBLISHED AND PUT A LINE TYPED ON?

22 A. NO, I DO NOT RECALL.

23 Q. IN THE THIRD PARAGRAPH ON PAGE 3, IT
24 REFERS TO, "IN MY EARLY DISCUSSIONS WITH CARL." IS IT
25 YOUR UNDERSTANDING THAT HE'S REFERRING TO YOU?

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1 A. YES.
2 Q. OKAY. NOW, DID THOSE DISCUSSIONS
3 OCCUR AFTER THE MEETING THAT YOU'VE DESCRIBED IN
4 LOUISVILLE?

5 A. YES.
6 Q. SO THAT THE MEETING YOU DESCRIBED IN
7 LOUISVILLE HAPPENED PRIOR TO MAY 20, 1985?

8 A. YES.
9 Q. HOW MANY CONVERSATIONS OR DISCUSSIONS
10 DID YOU HAVE WITH MR. PEASE BETWEEN THE TIME OF THE
11 LOUISVILLE MEETING AND MR. PEASE'S MAY 20, 1985 LETTER?

12 A. I CAN RECALL ONE CONVERSATION.

13 Q. WAS THAT A TELEPHONE CONVERSATION?

14 A. TELEPHONE CONVERSATION.

15 Q. DO YOU RECALL HOW MUCH TIME HAD
16 ELAPSED FROM THE LOUISVILLE MEETING?

17 A. IT WAS EITHER THE SAME DAY OR IT WAS
18 THE NEXT DAY.

19 Q. OKAY. AND WHO CALLED WHOM?

20 A. HERB PEASE CALLED ME.

21 Q. AND WHAT DID MR. PEASE SAY TO YOU?

22 A. MR. PEASE SAID A NUMBER OF THINGS THAT
23 IS SPECIFIED IN THIS DOCUMENT, AND I WOULD CHARACTERIZE
24 IT AS A VERY RAMBLING CONVERSATION.

25 Q. WHAT DID YOU SAY TO MR. PEASE?

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1 A. I LISTENED, AND THAT WAS BASICALLY IT.

2 Q. DID YOU SAY YOU WOULD GET BACK TO HIM?

3 A. I DON'T RECALL.

4 Q. OKAY. DID BROWN & WILLIAMSON DRAFT A
5 LETTER TO MR. PEASE FOLLOWING THE LOUISVILLE MEETING IN
6 MAY OF '85?

7 LET ME REPHRASE THAT.

8 FOLLOWING THE FIRST LOUISVILLE
9 MEETING DID BROWN & WILLIAMSON SEND MR. PEASE A LETTER
10 RESPECTING THAT MEETING?

11 MR. KLOTZ: OBJECT TO THE FORM.

12 A. WE MAY HAVE, BUT I DON'T SPECIFICALLY
13 RECALL.

14 Q. LET ME SHOW YOU WHAT'S PREVIOUSLY BEEN
15 MARKED AS PEASE EXHIBIT 25. IT'S A LETTER DATED MAY 23,
16 1985, FROM MR. SANDEFUR TO MR. PEASE.

17 A. OKAY.

18 Q. DID YOU RECEIVE A COPY OF THIS LETTER
19 FROM MR. PEASE DATED MAY 23, 1985?

20 A. I DON'T KNOW IF I RECEIVED A COPY BUT
21 I PREVIOUSLY READ IT.

22 Q. DID YOU READ IT BEFORE IT WAS SENT
23 OUT?

24 A. I DON'T RECALL.

25 Q. DID YOU PARTICIPATE IN ITS DRAFTING?

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1 A. NO.

2 Q. IF YOU LOOK AT PAGE 2 THERE IS A

3 SENTENCE THERE THAT SAYS, "CURRENTLY THESE REBATES ARE

4 DOLLAR PER CARTON FOR 200,000 MINIMUM ANNUAL CASES AND

5 95 CENTS A CARTON --"

6 A. YES.

7 Q. "-- FOR 100,000 MINIMUM ANNUAL CASES."

8 DID YOU OR ANYBODY IN YOUR DEPARTMENT

9 GET INVOLVED IN DEVELOPING THOSE FIGURES?

10 A. NOT TO MY KNOWLEDGE.

11 Q. LET ME SHOW YOU WHAT'S BEEN PREVIOUSLY

12 MARKED AS PEASE EXHIBIT 22. IT'S A LETTER DATED MAY 20,

13 1985.

14 A. MAY WHAT?

15 Q. 20, 1985, FROM KIMBERLY PEASE TO MR.

16 SANDEFUR AND SHOWS A C.C. TO YOU.

17 A. OKAY.

18 Q. DID YOU RECEIVE A --

19 A. YES.

20 Q. -- COPY OF THIS LETTER FROM MISS

21 PEASE?

22 A. YES.

23 Q. WOULD YOU MARK THIS AS HEGER EXHIBIT

24 46 FOR IDENTIFICATION. IT'S ENTITLED, "COMPARATIVE GPC

25 GENERIC CONTRIBUTION SCENARIOS," STAMP NUMBERS E03067.

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1 (WHEREUPON, HEGER DEPOSITION EXHIBIT
2 46 WAS MARKED FOR IDENTIFICATION.)

3 A. OKAY.

4 Q. IN THE LEFT-HAND TOP PART OF THE PAGE
5 THERE IS SOME HANDWRITING. CAN YOU IDENTIFY THE
6 HANDWRITING?

7 A. I THINK THAT'S MR. BACON'S.

8 Q. CAN YOU IDENTIFY THE HANDWRITING ON
9 THE RIGHT-HAND SIDE OF THE PAGE?

10 A. I BELIEVE THAT'S ALSO MR. BACON'S.

11 Q. COULD YOU READ THE HANDWRITING IN THE
12 LEFT-HAND SIDE, PLEASE?

13 A. COULD I READ IT?

14 Q. YES.

15 A. "CARRYING COSTS 60 TO 70 CENTS PER M.
16 MARKETING COSTS, INCREASE OVERHEADS SAVE 50 CENTS."

17 Q. THE INITIALS ON THE LOWER LEFT-HAND
18 CORNER, T.W.W. 6-18-'85, ARE THOSE THE INITIALS OF TOM
19 WILSON?

20 A. YES.

21 Q. AND MR. WILSON IS IN WHAT POSITION,
22 WAS IN WHAT POSITION AT BROWN & WILLIAMSON IN JUNE OF
23 '85?

24 A. HE WAS THE BUDGET MANAGER.

25 Q. AFTER THE MAY 23 LETTER FROM BROWN &
THOMPSON, COULTER, GETTELFINGER & PATEN
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824 20641

CONFIDENTIAL MINNESOTA TOBACCO LITIGATION

1 WILLIAMSON TO GPC, DID YOU HAVE ANY FURTHER
2 COMMUNICATIONS WITH ANYBODY FROM GPC OR ITS
3 REPRESENTATIVES?

4 A. DID I -- WOULD YOU REPEAT THE
5 QUESTION, PLEASE?

6 Q. SURE. WOULD YOU READ IT BACK, PLEASE?
7 (WHEREUPON, THE REPORTER THEN READ
8 THE RECORD.)

9 A. OVER WHAT PERIOD OF TIME DOES THAT
10 QUESTION REFER TO?

11 Q. THROUGH JULY OF 1985.

12 A. I DON'T SPECIFICALLY RECALL THE TIME
13 FRAME AS TO WHAT HAPPENED IN JUNE AND JULY OF 1985.

14 Q. DO YOU RECALL THAT THE COMMUNICATIONS
15 THAT YOU MAY HAVE HAD CONCERNED BROWN & WILLIAMSON
16 MANUFACTURING GPC GENERIC CIGARETTES?

17 A. I DON'T RECALL ANY COMMUNICATION THAT
18 SPECIFIC TO B&W MANUFACTURING OF GPC CIGARETTES.

19 Q. OKAY. WHAT ABOUT COMMUNICATIONS
20 CONCERNING WHETHER BROWN & WILLIAMSON WOULD BECOME A
21 MANUFACTURER OF GPC GENERIC CIGARETTES?

22 A. DURING THE SUMMER OF 1985 THERE WAS
23 SEVERAL CONVERSATIONS WITH GPC, BUT I CAN'T SPECIFICALLY
24 RECALL THE DATES OF THOSE CONVERSATIONS.

25 Q. DO YOU RECALL WHETHER YOU HAD ANY
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B24 20642

1 FURTHER MEETINGS WITH EITHER MR. PEASE OR ANY OTHER
2 REPRESENTATIVE OF GPC?

3 A. YES.

4 Q. WHEN WAS THE NEXT MEETING AFTER THE
5 LOUISVILLE MEETING?

6 A. I DON'T SPECIFICALLY RECALL.

7 Q. DO YOU RECALL HOW LONG AFTER THE
8 LOUISVILLE MEETING OCCURRED?

9 A. I WOULD SAY IT WAS WITHIN THE NEXT 5
10 OF 6 WEEKS OR SOONER.

11 Q. WHERE WAS THAT MEETING HELD?

12 A. LITTLE ROCK, ARKANSAS.

13 Q. AND WHO ATTENDED THAT MEETING?

14 A. JIM NELSON, MR. SANDEFUR, MR. BUTLER
15 AND MYSELF.

16 Q. DO YOU KNOW HOW THAT MEETING WAS SET
17 UP OR ARRANGED FOR?

18 A. I BELIEVE THE MEETING WAS SET UP AS A
19 RESULT OF QUESTIONS BY MR. NELSON PERTAINING TO B&W
20 BECOMING A SUPPLIER OF GPC CIGARETTES.

21 Q. DO YOU KNOW WHO HE ADDRESSED THOSE
22 QUESTIONS TO?

23 A. MR. SANDEFUR.

24 Q. SO MR. NELSON AND MR. SANDEFUR SPOKE
25 PRIOR TO THE SECOND MEETING?

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B24 20643

1 A. THE BEST OF MY RECOLLECTION.
2 Q. ALL RIGHT. AND DO YOU RECALL -- DID
3 MR. SANDEFUR TELL YOU WHAT THE SUBSTANCE OF THAT
4 CONVERSATION WAS WITH MR. NELSON?
5 A. I DON'T RECALL.
6 Q. DO YOU HAVE ANY INFORMATION ABOUT THE
7 SUBSTANCE OF THAT CONVERSATION?
8 MR. KLOTZ: BETWEEN MR. SANDEFUR AND
9 MR. NELSON NOW?
10 Q. YES.
11 A. I DON'T RECALL.
12 Q. AFTER MEETING MR. NELSON DID YOU MAKE
13 ANY INQUIRY INTO HIS BACKGROUND AND QUALIFICATIONS?
14 A. DID I?
15 Q. YES, OR BROWN & WILLIAMSON.
16 A. AFTER WHICH MEETING?
17 Q. AFTER THE FIRST MEETING.
18 A. I DON'T RECALL DOING ANYTHING LIKE
19 THAT NOR DO I RECALL ANYONE IN THE COMPANY DOING THAT.
20 Q. AT ANY TIME?
21 A. AT ANY TIME.
22 Q. HOW LONG DID THE MEETING LAST IN
23 LITTLE ROCK?
24 A. APPROXIMATELY ONE HOUR.
25 Q. AND WAS ANY AGREEMENT REACHED AT THIS
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B24 20644

1 MEETING BETWEEN GPC AND BROWN & WILLIAMSON?

2 A. NO.

3 Q. HOW WAS IT LEFT AT THE END OF THE
4 MEETING?

5 A. IT WAS LEFT THAT MR. NELSON WOULD GET
6 BACK TO MR. SANDEFUR.

7 Q. AND WHAT WAS MR. NELSON GOING TO GET
8 BACK TO MR. SANDEFUR ABOUT?

9 A. HE WAS GOING TO TALK TO -- SORRY.
10 JIM NELSON WAS GOING TO TALK TO MR. PEASE ABOUT A
11 DIFFERENT CONCEPT THAN WHAT HAD PREVIOUSLY BEEN
12 DISCUSSED.

13 Q. AND WHAT WAS THAT CONCEPT?

14 A. THAT CONCEPT WAS THAT BROWN &
15 WILLIAMSON WOULD MANUFACTURE UNDER LICENSE ALL OF THE
16 GPC CIGARETTES.

17 Q. AND THAT NONE OF THE CIGARETTES WOULD
18 BE MANUFACTURED FOR GPC BY LIGGETT?

19 A. YES.

20 Q. DID MR. NELSON SAY AT THE MEETING
21 THAT HE HAD DISCUSSED THAT CONCEPT PREVIOUSLY WITH MR.
22 PEASE, A LICENSING CONCEPT?

23 A. NOT THAT I RECALL.

24 Q. WAS IT RAISED BY MR. SANDEFUR?

25 A. YES.

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B24 20645

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1 Q. AND IN RESPONSE MR. NELSON SAID, "I
2 HAVE TO TALK TO MR. PEASE?"

3 A. YES.

4 Q. DID MR. SANDEFUR SAY HOW MUCH A
5 LICENSING FEE BROWN & WILLIAMSON WAS WILLING TO CONSIDER
6 PAYING FOR THAT ARRANGMENT?

7 A. YES.

8 Q. AND WHAT WAS THAT FIGURE?

9 A. THE FIGURE WAS \$1.05 PER THOUSAND
10 CIGARETTES.

11 Q. THAT'S THE SAME FIGURE THAT WAS
12 DISCUSSED AT THE FIRST MEETING WHICH WOULD BE PAID IN
13 THE FORM OF A VOLUME REBATE: CORRECT?

14 MR. KLOTZ: OBJECT TO THE FORM.

15 A. NO.

16 Q. WOULD YOU READ BACK THE QUESTION,
17 PLEASE?

18 (WHEREUPON, THE REPORTER THEN READ THE
19 RECORD.)

20 MR. KLOTZ: MY OBJECTION AND HIS
21 ANSWER WAS NO.

22 Q. ONE MORE ANSWER BACK THEN, PLEASE.
23 SORRY.

24 (WHEREUPON, THE REPORTER THEN READ THE,
25 RECORD.)

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1 Q. AND IT'S \$1.05, THE LICENSING FIGURE
2 WAS \$1.05 PER THOUSAND CIGARETTES, THE REBATE FIGURE WAS
3 \$1.05 PER CARTON?

4 A. THAT'S CORRECT.

5 Q. OKAY. SO THE LICENSING FEE WAS 21
6 CENTS A CARTON?

7 A. YES.

8 Q. OKAY.

9 Q. AFTER THE LITTLE ROCK MEETING WERE
10 THERE ANY SUBSEQUENT MEETINGS BETWEEN YOU AND
11 REPRESENTATIVES OF GPC?

12 A. THERE WERE MORE MEETINGS IN
13 LOUISVILLE AND ALSO THERE WAS A MEETING THAT I ATTENDED
14 IN FORT WORTH DURING THE SUMMER OF 1985.

15 Q. WERE THOSE MEETINGS PRIOR TO THE TIME
16 THAT BROWN & WILLIAMSON GPC EXECUTED THEIR CONTRACT?

17 A. I DON'T BELIEVE THE ONE IN FORT WORTH
18 WAS, AND I'M NOT SURE ABOUT THE ONE IN LOUISVILLE.

19 Q. THE NEGOTIATIONS FOR BROWN &
20 WILLIAMSON TO BECOME A SUPPLIER FOR GPC GENERIC
21 CIGARETTES EVENTUALLY CULMINATED INTO A CONTRACT BETWEEN
22 THE PARTIES; CORRECT?

23 A. YES.

24 Q. I WANT TO SHOW YOU WHAT'S BEEN
25 PREVIOUSLY MARKED AS PRITCHARD 2. IT APPEARS ALSO AS

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B24 20647

CONFIDENTIAL MINNESOTA TOBACCO LITIGATION

1 PEASE 30.

2 A. YES.

3 Q. IS THAT THE CONTRACT THAT YOU
4 REFERRED TO JUST NOW BETWEEN GPC AND BROWN & WILLIAMSON?

5 A. YES.

6 Q. DID MR. NELSON AFTER THAT MEETING IN
7 LITTLE ROCK GET BACK TO BROWN & WILLIAMSON IN RESPONSE
8 TO THE LICENSING CONCEPT?

9 A. YES.

10 Q. DO YOU KNOW TO WHOM HE SPOKE?

11 A. IT WAS EITHER TO MR. SANDEFUR OR TO
12 MYSELF.

13 Q. DO YOU RECALL WHAT HE SAID OR DO YOU
14 KNOW WHAT HE SAID?

15 A. I DON'T RECALL WHO HE CALLED.

16 Q. DID YOU LEARN OF EITHER -- DID YOU
17 LEARN WHAT THE RESPONSE WAS OF GPC?

18 A. THE RESPONSE FROM GPC WAS THAT
19 CONCEPTUALLY THEY WERE WILLING TO PURSUE THE IDEA THAT
20 WAS DISCUSSED IN LITTLE ROCK.

21 Q. OKAY. DID YOU HAVE ANY FURTHER
22 DISCUSSIONS WITH MR. NELSON WITH RESPECT TO THAT?

23 A. YES.

24 Q. DID YOU HAVE ANY DISCUSSIONS WITH MR.
25 PEASE WITH RESPECT TO THAT?

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1 A. NO, NOT THAT I CAN RECALL.

2 Q. ALL RIGHT. JUST FOR CLARIFICATION,

3 WHEN YOU HAVE BEEN REFERRING TO MR. PEASE, THAT'S A

4 REFERENCE TO HERBERT PEASE, SENIOR?

5 A. YES.

6 Q. WHEN WAS THE NEXT TIME YOU SPOKE TO

7 MR. NELSON? DO YOU RECALL?

8 MR. KLOTZ: AFTER LITTLE ROCK OR

9 AFTER WHAT?

10 Q. AFTER LITTLE ROCK.

11 A. I SPOKE TO MR. NELSON SEVERAL TIMES

12 OVER THE NEXT COUPLE OF WEEKS.

13 Q. AND WHAT WAS THE SUBSTANCE OF THOSE

14 CONVERSATIONS?

15 A. JUST CLARIFYING HOW AN ARRANGMENT

16 COULD BE MADE THAT WOULD RESULT IN SOME TYPE OF AN

17 ARRANGMENT LIKE WE DISCUSSED IN LITTLE ROCK

18 Q. IN THE MEETING AT LITTLE ROCK, WAS

19 THERE A DISCUSSION THAT THE LICENSING ARRANGMENT WOULD

20 BE -- WOULD HAVE A GUARANTEE TERM TO IT?

21 A. YES, CONCEPTUALLY.

22 Q. CONCEPTUALLY THAT GUARANTEED TERM

23 WOULD BE IN TERMS OF THE NUMBER OF YEARS?

24 A. YES.

25 Q. DID YOU HAVE ANY DISCUSSIONS WITH MR.

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824 20649

CONFIDENTIAL MINNESOTA TOBACCO LITIGATION

1 PRITCHARD ABOUT THIS?

2 A. YES.

3 Q. DO YOU RECALL WHEN YOU HAD THOSE
4 DISCUSSIONS?

5 A. GENERALLY IT WAS DURING THE -- ALL
6 DURING THE NEGOTIATING PROCESS.

7 Q. DID HE EXPRESS CONCERNS ABOUT DOING
8 THE DEAL WITH GPC?

9 MR. KLOTZ: OBJECT TO THE FORM.

10 A. HE HAD A NUMBER OF BUSINESS-RELATED
11 COMMERCIAL QUESTIONS CONCERNING THE DEAL, YES.

12 Q. WAS ONE OF THEM THAT IN ORDER TO
13 MANUFACTURE THE GPC CIGARETTES IN THE VOLUME
14 ANTICIPATED, THAT SOME OF THE BRANDED CIGARETTES WOULD
15 HAVE TO BE MOVED FROM MACON TO PETERSBURG FOR
16 MANUFACTURE?

17 A. I DON'T RECALL THE SPECIFIC CONCERNS.

18 Q. YOU DON'T RECALL ANY OF THE CONCERNS?

19 A. DO I RECALL ANY OF HIS CONCERNS?

20 Q. YES.

21 A. HE WAS CERTAINLY CONCERNED ABOUT THE
22 PROFITABILITY OF THE CONCEPT. HE WAS CONCERNED, AS I
23 RECALL, AS TO THE AMOUNT OF THE LICENSING FEE. I CAN'T
24 RECALL ANYTHING ELSE SPECIFIC.

25 Q. DID HE EXPRESS DISFAVOR AS TO THE IDEA
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824 20650

1 OF A LONG-TERM GUARANTEE?

2 A. YES, HE DID.

3 Q. DOES THE CONTRACT BETWEEN GPC AND
4 BROWN & WILLIAMSON IN FACT HAVE A GUARANTEE FOR 4 OR 5
5 YEARS?

6 A. YES.

7 Q. LET'S MARK AS HEGER EXHIBIT 47
8 HANDWRITTEN PAGES STAMP NUMBER 1612301 THROUGH 309.

9 (WHEREUPON, HEGER DEPOSITION EXHIBIT
10 47 WAS MARKED FOR IDENTIFICATION.)

11 Q. HAVE YOU REVIEWED WHAT'S BEEN MARKED
12 AS HEGER EXHIBIT 47?

13 A. YES.

14 Q. ARE THESE YOUR HANDWRITTEN NOTES?

15 A. YES.

16 Q. WOULD YOU TURN TO THE SECOND PAGE?

17 A. YES.

18 Q. AND THERE IS A DATE ON THE RIGHT-HAND
19 SIDE WHICH SAYS 6-11-'85.

20 A. YES.

21 Q. WOULD YOU READ THE NOTES THAT YOU
22 WROTE, PLEASE?

23 A. FROM THE TOP OF THE PAGE IN?

24 Q. NO, FROM THE DATE DOWN.

25 A. "LOTS OF NOTES, CALL TOMORROW OR

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824 20651

1 THURSDAY, NO BIG PROBLEM, NOT COMPLETE LIST, HAVEN'T
2 WORKED OUT LITTLE ROCK TRIP, VERY CLOSE, HAVEN'T GOT ALL
3 PRODUCTS IN A ROW, MORE SUBSTANTIAL ISSUES FACE TO FACE
4 WITH TOMMY, FEW IN NUMBER, HERB DUE BACK 13TH, VISIT
5 TOMMY ON FRIDAY, VISIT HERB PEASE ON SATURDAY."

6 Q. IS THAT THE END OF THAT SECTION OF THE
7 NOTES?

8 A. THE NEXT PAGE SAYS 6-12 AND THE
9 PREVIOUS PAGE SAYS 6-17 SO I WOULD ASSUME THAT'S THE END
10 OF THE NOTES.

11 Q. OKAY. WHERE IT SAYS, "VISIT HERB
12 PEASE ON SATURDAY," WHAT DOES THAT REFER TO?

13 A. I BELIEVE THAT REFERS TO MR. NELSON
14 SAYING THAT HE PLANS TO VISIT HERB PEASE ON SATURDAY.

15 Q. ARE THESE NOTES OF A CONVERSATION YOU
16 HAD WITH MR. NELSON ON JUNE 11, 1985?

17 A. YES.

18 Q. THE NEXT PAGE OF THE NOTE IS HEADED IN
19 THE RIGHT-HAND CORNER JUNE 12, 1985; CORRECT?

20 A. YES.

21 Q. ARE THESE NOTES OF A MEETING OR
22 TELEPHONE CONVERSATION YOU HAD?

23 A. I BELIEVE THIS MUST BE ANOTHER PHONE
24 CALL FROM JIM NELSON.

25 Q. BY THE WAY, ON THE PRIOR PAGE THERE

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B24 20652

273

1 ARE 2 TELEPHONE NUMBERS WITH JIM NELSON'S NAME IN
2 BETWEEN THEM. ARE THOSE MR. NELSON'S TELEPHONE NUMBERS?

3 A. I BELIEVE THEY ARE.

4 Q. ONE IS HIS HOME AND ONE IS HIS OFFICE?

5 A. I BELIEVE THAT'S CORRECT.

6 Q. COULD YOU PLEASE READ YOUR NOTES OF
7 YOUR TELEPHONE CONVERSATION WITH MR. NELSON ON JUNE 12,
8 1985?

9 A. "L.R. 4:15 TO 4:30.

10 "1. NO DISCUSSED WITH K.R.H. HIS
11 THOUGHTS.

12 "1. TOMMY'S LETTER.

13 "1. TERMINATION NOTICE - 90 DAYS NOT
14 LONG ENOUGH LONGER.

15 "2. INDEMNIFY - MORE --" IT LOOKS LIKE
16 A WORD WAS STARTED: S.P. AND STOPS -- - HOLD IN
17 ABEYANCE.

18 "3. SELLING PRICE - CAN'T ACCURATELY
19 RECALL AMEND. STRUCTURE OF THE MARKET CHANGES \$1 PER M.

20 "4. CUSTOMER SIGN?

21 "5. POP - REOPENED - COST.

22 "6. START-UP - BRACKETS.

23 "6 P.M. LITTLE ROCK EXCELSIOR, THREE
24 STATEHOUSE PLAZA, 501-375-5000."

25 Q. OKAY. WERE THESE THOUGHTS THAT MR.

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CONFIDENTIAL MINNESOTA TOBACCO LITIGATION

274

1 NELSON EXPRESSED TO YOU WITH RESPECT TO MR. SANDEFUR'S
2 LETTER TO MR. PEASE OF MAY 23?

3 A. APPARENTLY, YES.

4 Q. IN THE FIRST NUMBER 1, THE REFERENCE
5 TO K OR H IS A REFERENCE TO KIMBERLY PEASE AND HERB
6 PEASE?

7 A. YES.

8 Q. THE NEXT PAGE OF THE NOTES, IS THAT A
9 CONTINUATION OF YOUR CONVERSATION WITH MR. NELSON ON
10 JUNE 12, 1985?

11 A. THE PRIOR CONVERSATION WAS JUNE THE
12 11TH.

13 WHAT WAS YOUR QUESTION? MAYBE YOU
14 BETTER REPEAT THE QUESTION.

15 Q. I JUST WANT TO MAKE SUPE WE HAVE IT
16 CLEAR.

17 AS I UNDERSTOOD IT, AND CORRECT ME IF
18 THIS IS INCORRECT, MR. HEGER, THAT YOU FIRST HAD A
19 CONVERSATION ON 6-11-'85 AND THAT IS REFLECTED IN YOUR
20 NOTES ON THE SECOND PAGE OF THIS EXHIBIT?

21 A. YES.

22 Q. YOU THEN HAD ANOTHER CONVERSATION WITH
23 MR. NELSON ON JUNE 12, 1985?

24 A. YES.

25 Q. AND THAT CONVERSATION IS REFLECTED IN
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824 20654

1 YOUR NOTES ON THE THIRD PAGE OF THE EXHIBIT?

2 A. YES.

3 Q. AND MY QUESTION IS: THE NEXT PAGE OF
4 THE EXHIBIT PAGE 4, WHICH BEGINS, "1, HERB," DO THOSE
5 NOTES RELATE TO YOUR CONVERSATION WITH MR. NELSON ON
6 JUNE 12 OR ARE THEY SEPARATE?

7 A. I DON'T RECALL.

8 Q. WOULD YOU READ YOUR NOTES ON THE 4TH
9 PAGE?

10 A. "1, HERB - 6 BILLION UNITS
11 SUBSTANTIAL.

12 "2, MECHANICS - B&W FLEXIBILITY NOT TO
13 BE TIED IN - HERB LONG-TERM STAND IN BOTH SHOES."

14 Q. DO YOU KNOW WHAT THAT PHRASE MEANS,
15 "STAND IN BOTH SHOES"?

16 A. NO.

17 Q. THE REFERENCE TO PARAGRAPH 2, "HERB
18 LONG-TERM" IS A REFERENCE TO PEASE; CORRECT?

19 A. I ASSUME SO.

20 Q. THE NEXT PAGE OF YOUR NOTES IN THE
21 UPPER RIGHT-HAND CORNER THERE IS A DATE OF 6-20-'85?

22 A. YES.

23 Q. JUNE 20, 1985.

24 AND IT THEN SAYS, "TOPICS FOR
25 DISCUSSION;" CORRECT?

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B24 20655

1 A. WAIT A MINUTE.

23
2 YES.

3 Q. WITH WHOM WERE THOSE TO BE TOPICS FOR
4 DISCUSSION?

5 A. MR. SANDEFUR.

6 Q. NOW, GOING BACK TO THE VERY FIRST PAGE
7 OF YOUR NOTES, THEY ARE DATED JUNE 17, 1985; CORRECT?

8 A. YES.

9 Q. ALL RIGHT. DO THEY REFLECT A MEETING
10 YOU ATTENDED OR A TELEPHONE CONVERSATION YOU REPORTED
11 TO?

12 THE WITNESS: COULD I ASK A QUESTION?

13 MR. KLOTZ: OF HIM OR ME?

14 THE WITNESS: TO CLARIFY SOMETHING IN
15 MY MIND.

16 MR. KLOTZ: SURE.

17 A. DO YOU KNOW WHEN THE LITTLE ROCK
18 MEETING WAS?

19 Q. NO. THE ONLY THING I KNOW IS THAT YOU
20 HAVE A REFERENCE IN YOUR JUNE 12 NOTES TO THE LITTLE
21 ROCK LOCATION.

22 A. OKAY. CONTINUE YOUR QUESTIONS.

23 MR. KLOTZ: HIS QUESTION WAS: ARE
24 THESE NOTES OF A MEETING OR NOTES OF A TELEPHONE
25 CONVERSATION OR SOMETHING ELSE OR YOU DON'T KNOW?

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B24 26656

1 A. AS FAR AS THIS FIRST PAGE I DO NOT
2 RECALL. I THINK THAT IT'S A TELEPHONE CONVERSATION. BUT
3 I DON'T RECALL.

4 Q. OKAY. CAN YOU READ THE NOTES FOR ME,
5 YOUR HANDWRITTEN NOTES?

6 A. "6-17-'85. CALL HERB PEASE -
7 WEDNESDAY. WE PAY REBATES. HERB GETS 21 CENTS."
8 THE NEXT LINE I CAN'T MAKE OUT.
9 THE NEXT LINE I CAN'T MAKE OUT.
10 THE NEXT LINE SAYS, "\$2.50 JEOPARDY -
11 CORE-MARK."

12 THE NEXT LINE IS, "GPC - TOBACCO
13 PRODUCTS."

14 THE NEXT LINE IS, "JIM NELSON."
15 THE NEXT LINE IS, "CLEAN BILL OF
16 HEALTH."

17 THE NEXT LINE IS EXCLUSIVITY ONE WAY -
18 L&M GAVE GPC EXCLUSIVITY."

19 THE NEXT LINE, "COMMERCIAL - GOOD FOR
20 FOR BOTH."

21 "MAJOR CONCERN - NEED TO GO FAST,
22 PRICE INCREASE - DISPARITY EQUITY PARITY PRICING, BACK
23 UP PLAN 8.7 BILLION, GPC COMPETITIVE REBATE.

24 "B&W, 3 YEARS HAVE TO REDUCE REBATES
25 \$2.50."

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824 20657

1 Q. THE 2.50 RELATES TO THE STATEMENT HOW
2 TO REDUCE REBATES OR IS THAT SEPARATE?

3 MR. KLOTZ: OBJECT TO THE FORM.

4 A. I DON'T KNOW.

5 Q. WHERE IT SAYS, "HERB GETS 21 CENTS,"
6 IS THAT A REFERENCE TO THE LICENSING FEE?

7 A. I BELIEVE SO.

8 Q. SO THAT BY JUNE 17, 1985, IS IT FAIR
9 TO PROCEED ON THE BASIS THAT THE LITTLE ROCK MEETING HAD
10 OCCURRED?

11 A. I BELIEVE THAT'S CORRECT.

12 Q. WHERE IT SAYS AT THE TOP, "CALL HERB
13 P. WEDNESDAY," THAT'S A REFERENCE TO MR. PEASE?

14 A. YES.

15 Q. DO YOU RECALL WHETHER YOU DID IN FACT
16 SPEAK TO MR. PEASE FOLLOWING THE MEETING IN LITTLE ROCK?

17 A. I DID NOT CALL MR. PEASE. I DON'T
18 RECALL CALLING MR. PEASE. I THINK THAT MEANS THAT MR.
19 NELSON WAS GOING TO CALL MR. PEASE.

20 Q. DO YOU KNOW WHETHER MR. PEASE
21 FOLLOWING THE LITTLE ROCK MEETING IN THE TIME PERIOD
22 THAT WE ARE NOW, IN JUNE, ROUGHLY GAVE MR. NELSON THE
23 OKAY ON THE LICENSING AGREEMENT CONCEPT?

24 MR. KLOTZ: CAN I HEAR THAT BACK?

25 (WHEREUPON, THE REPORTER THEN READ THE

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1 RECORD.)

MR. KLOTZ: OBJECT TO THE FORM.

2
3 A. WOULD YOU REPEAT IT ONE MORE TIME?

4 (WHEREUPON, THE REPORTER THEN READ THE
5 RECORD.)

6 A. MY UNDERSTANDING IS THAT MR. PEASE
7 GAVE MR. NELSON THE OKAY TO PURSUE THAT CONCEPT.

8 Q. AND WOULD THAT HAVE BEEN RELATIVELY
9 SHORTLY AFTER THE LITTLE ROCK MEETING?

10 A. YES.

11 Q. WE'RE TALKING DAYS, I TAKE IT?

12 A. YES.

13 Q. AND THAT WAS LEARNED THROUGH
14 CONVERSATIONS WITH MR. NELSON?

15 A. YES.

16 Q. THE REFERENCE TO, "2.50 JEOPARDY -
17 CORE-MARK" IN YOUR NOTES, WHAT DOES THAT MEAN?

18 A. I DON'T RECALL.

19 Q. WAS CORE-MARK THEN A CUSTOMER OF BROWN
20 & WILLIAMSON FOR ITS GENERIC CIGARETTES?

21 A. I BELIEVE THEY WERE.

22 Q. WERE THEY RECEIVING A REBATE?

23 A. CERTAINLY.

24 Q. WERE THEY RECEIVING A REBATE OF 2.50?

25 MR. KLOTZ: OBJECT TO THE FORM.

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824 20659

280

1 Q. PER THOUSAND CIGARETTES?

2^m A. I DON'T RECALL.

3 Q. YOU DON'T RECALL WHAT THEIR REBATE
4 WAS?

5 A. NO, I DON'T RECALL.

6 Q. UNDER JIM NELSON'S NAME YOU WROTE,
7 "CLEAN BILL OF HEALTH"?

8 A. YES.

9 Q. WHAT DOES THAT MEAN?

10 A. I BELIEVE THAT MEANS THAT MR. NELSON
11 SAID THAT THERE WAS NO PROBLEM WITH THE AGREEMENT THAT
12 GPC HAD WITH L&M.

13 Q. NO PROBLEM IN THE SENSE THAT --

14 A. CONTRACTUALLY.

15 Q. GPC COULD TERMINATE THE CONTRACT WITH
16 LIGGETT?

17 A. YES.

18 Q. AND IS THAT WHAT THE NEXT SENTENCE
19 RELATES TO ABOUT EXCLUSIVITY?

20 MR. KLOTZ: OBJECT TO THE³ FORM.

21 A. I BELIEVE SO. I DON'T SPECIFICALLY
22 RECALL, BUT I BELIEVE THEY WERE RELATED.

23 Q. THE NEXT ITEM IN YOUR NOTE SAYS,
24 "MAJOR CONCERNS NEED TO GO FAST." WAS THAT A MAJOR
25 CONCERN OF BROWN & WILLIAMSON?

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824 20660

1 A. NO.

2 Q. IT WAS A MAJOR CONCERN OF --

3 A. JIM NELSON.

4 Q. DO YOU KNOW WHY?

5 A. THE REASON THAT HE THOUGHT THAT IT WAS
6 NECESSARY TO DO SOMETHING QUICKLY WAS -- IF MEMORY
7 SERVES ME -- THIS WAS AFTER THE TIME WHEN LIGGETT
8 INCREASED THEIR SELLING PRICE.

9 Q. WHY WOULD THAT -- WHY DID MR. NELSON
10 SAY THAT THAT WAS THE REASON HE WANTED TO GO FAST?

11 A. HE FELT THAT THE G.P.C. SALES WOULD
12 SUFFER IF BROWN & WILLIAMSON DID NOT ALSO INCREASE PRICE
13 IF WE WERE GOING TO SELL GPC CIGARETTES.

14 Q. COULD YOU READ BACK MR. HEGER'S
15 ANSWER, PLEASE?

16 (WHEREUPON, THE REPORTER THEN READ
17 THE RECORD.)

18 Q. YOU MEAN IF THE GPC CIGARETTES
19 MANUFACTURED BY BROWN & WILLIAMSON WERE LOWER IN
20 SELLING PRICE THAN LIGGETT'S, HE BELIEVED THAT WOULD
21 ADVERSELY AFFECT GPC SALES?

22 MR. KLOTZ: OBJECT TO THE FORM.

23 A. HE BELIEVED THAT THE BROWN &
24 WILLIAMSON GENERICS SOLD AT A LOWER PRICE THAN GPC
25 MANUFACTURED BY LIGGETT WOULD DAMAGE THE GPC TRADEMARK.

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1 Q. AND IN FACT BROWN & WILLIAMSON DID
2 NOT RAISE ITS SELLING PRICE TO THE PRICE LIGGETT HAD
3 RAISED ITS SELLING PRICE; CORRECT?

4 A. CORRECT.

5 Q. SO THAT MADE THE BROWN & WILLIAMSON
6 SELLING PRICE MORE ATTRACTIVE TO MR. NELSON?

7 MR. KLOTZ: OBJECT TO THE FORM.

8 Q. I'LL REPHRASE IT.

9 THE FACT THAT THE BROWN & WILLIAMSON
10 SELLING PRICE, LIST PRICE WAS LESS THAN LIGGETT'S WAS
11 SOMETHING THAT MR. NELSON ON BEHALF OF GPC CONSIDERED
12 ATTRACTIVE IN DECIDING WHETHER TO HAVE BROWN &
13 WILLIAMSON MANUFACTURE GPC CIGARETTES?

14 A. HE FELT THAT IF SOMETHING DID NOT
15 HAPPEN RATHER QUICKLY AND THERE WAS NO AGREEMENT
16 BETWEEN GPC AND BROWN & WILLIAMSON, THAT IT WAS A
17 PROBLEM FOR GPC WITH BROWN & WILLIAMSON HAVING A LOWER
18 PRICE THAN L&M.

19 Q. AND THAT'S BECAUSE THE SALES OF GPC
20 WOULD DECREASE?

21 A. YES.

22 Q. AND IF MR. NELSON COULD DO THE DEAL
23 FAST ON BEHALF OF GPC WITH BROWN & WILLIAMSON HE HOPED
24 TO BE ABLE TO AVOID THAT DECREASE IN GPC SALES?

25 A. YES.

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1 (DISCUSSION OFF THE RECORD.)

2 Q. THE NOTES THAT YOU PREPARED WHICH ARE
3 DATED JUNE 20, 1985, THAT SHOW TOPICS FOR DISCUSSION
4 WITH MR. SANDEFUR?

5 A. YES.

6 Q. DID YOU IN FACT HAVE A DISCUSSION
7 WITH MR. SANDEFUR ABOUT THOSE TOPICS?

8 A. YES.

9 Q. WAS ANYBODY ELSE PRESENT?

10 A. NO.

11 Q. DO YOU RECALL WHEN YOU HAD THAT
12 DISCUSSION?

13 A. IT WAS EITHER ON JUNE THE 20TH OR
14 JUNE THE 21ST.

15 Q. OKAY. WOULD YOU PLEASE READ YOUR
16 NOTES ENTITLED, "TOPICS FOR DISCUSSION"?

17 A. JUST A QUESTION. IF YOU WANT ALL THIS
18 IN THE RECORD COULD SHE JUST TYPE FROM HERE? THEY SEEM
19 VERY LEGIBLE OR DO YOU HAVE TROUBLE READING THIS?

20 MR. KLOTZ: HE DOESN'T HAVE ANY
21 TROUBLE READING IT. HE'S TRYING TO KILL TIME BUT GO
22 AHEAD AND READ IT IN THE RECORD.

23 MR. TOPMAN: COME ON, MARTY, WHY DON'T
24 YOU AT LEAST LET ME RESPOND TO MR. HEGER'S SUGGESTION?

25 MR. KLOTZ: I FIND THIS OFFENSIVE. HE

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1 OBVIOUSLY DOES AS WELL. YOU'VE GOT THE CHIEF FINANCIAL
2 OFFICER OF THIS COMPANY HERE FOR 2 DAYS 90 PERCENT OF
3 THE TIME GOING OVER TRIVIA AND ASKING HIM TO ADD UP
4 NUMBERS, AND NOW YOU'RE HAVING HIM READ SOMETHING HE
5 SAID HE WROTE THAT NEITHER YOU NOR I NOR HE NOR THE
6 REPORTER NOR ANYBODY ELSE HAS DIFFICULTY READING. AND I
7 THINK YOU'RE OBVIOUSLY JUST POSTURING.

8 MR. TOPMAN: ARE YOU DONE?

9 MR. KLOTZ: YES, I'M DONE.

10 Q. I DON'T BELIEVE THE NOTES ARE AS CLEAR
11 AS YOU WOULD LIKE THEM TO BE, AND I THINK IF YOU READ
12 THE NOTES THAT MR. HEGER HAS HERE EVEN HE SAID HE
13 COULDN'T READ SOME OF THEM.

14 THE WITNESS: WE'RE TALKING ABOUT JUNE
15 20TH.

16 MR. KLOTZ: WE'RE TALKING ABOUT THE
17 SPECIFIC PAGES YOU POINTED TO.

18 MR. TOPMAN: LET'S JUST NOT MAKE THE
19 CHARACTERIZATION, OKAY?

20 MR. KLOTZ: I'LL MAKE THE
21 CHARACTERIZATIONS WHEN I WANT TO.

22 Q. WHAT I WOULD BE WILLING TO DO, MR.
23 HEGER --

24 A. YES.

25 Q. -- IS TO HAVE THE REPORTER FOLLOW YOUR

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1 SUGGESTION, PROVIDED THAT TO THE EXTENT SHE IS INCORRECT
2 IN WHAT SHE TYPES THAT YOU WILL CORRECT IT TO CONFORM TO
3 THE NOTES.

4 A. FINE.

5 Q. OKAY.

6 A. "1. NEW B&W GENERIC BUSINESS
7 (SCHEDULE.)

8 "2, MANUFACTURING CONSTRAINTS (1985 &
9 1986.

10 "3, CURRENT GPC POSITIONS,

11 " 2 - MAJOR CONCESSION, WE PAY
12 REBATES & DISCOUNTS. B&W SAVES .10-.15 PER CARTON. 60%
13 IS IN LOWEST VOLUME CATEGORY. ONE CUSTOMER IS HIGHEST
14 FLEMING.

15 "1 - WANTS TO SIGN BADLY, WILL
16 NEGOTIATE.

17 " - LEGAL POSITIONS.

18 " - TRADEMARK (EARNIE).

19 " - EXCLUSIVITY - CONFUSED.

20 " - BACK-UP PLAN.

21 " - PURCHASE OF TRADEMARK DISCUSSION.

22 "2, - ROYALTY \$.21 - .16 - .11.

23 "2, 80% FLOOR.

24 "2 - INFLATION ADJUSTMENTS IN SIXTH
25 YEAR.

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1 "4. MARKETING REASON FOR GPC
2 AGREEMENT (EQUITY).
3
4 "5. FINANCIAL POSITION (B&W/GPC).
5
6 "6. RAY PRITCHARD CONCERNS.
7
8 " - PETERSBURG.
9 " - FIELD SALES FORCE TIME.
10 " - H.O. MANAGEMENT TIME.
11 " - PRICING STRATEGY - NO RUSH - ALL
12 OUR FAVOR.

13 " - THOUGHT GPC DID ALL THE
14 WORK.
15 " - TOO LUCRATIVE FOR GPC.
16 " - EQUITY ONLY AT PARITY PRICING.
17 " - DON'T LIKE GUARANTEES.
18 " - PRIORITIES.
19 " - FRIGON."

20 Q. PARAGRAPH 2 SEEMS TO SAY,
21 "MANUFACTURING CONSTRAINTS 1985 AND 1986?"

22 A. YES.

23 Q. TO WHAT WERE YOU REFERRING?

24 A. I WAS REFERRING TO THE CLOSURE OF
25 PETERSBURG AND WHAT POSSIBLE PROBLEMS WE MAY HAVE
26 ABSORBING THE GPC MANUFACTURE.

27 Q. AND DID YOU FORESEE PROBLEMS IN THAT
28 REGARD?

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1 A. I FELT THERE WAS. IT WAS CERTAINLY
2 SOMETHING THAT NEEDED DISCUSSION.

3 Q. AND IN FACT WHEN YOU BROUGHT ON GPC
4 TO BE MANUFACTURED BY BROWN & WILLIAMSON, DID YOU KEEP
5 PETERSBURG AVAILABLE SO THAT YOU COULD HAVE SOME OF THE
6 BRANDED PRODUCT THAT HAD BEEN MANUFACTURED AT MACON
7 MOVED AND MANUFACTURED AT PETERSBURG SO THAT THERE WOULD
8 BE ROOM FOR MANUFACTURING OF THE GPC LABEL AT MACON?

9 A. IN THE --
10 MR. KLOTZ: OBJECT TO THE FORM.

11 A. IN THE AUGUST, SEPTEMBER, OCTOBER TIME
12 FRAME THERE WAS SOME SHIFTING AROUND OF MANUFACTURE BUT
13 PETERSBURG WAS CLOSED ON SCHEDULE.

14 Q. OKAY. MY QUESTION THOUGH WAS THAT BY
15 TAKING ON THE GPC MANUFACTURING, DID YOU HAVE TO SHIFT
16 FOR SOME PERIOD OF TIME BECAUSE OF CAPACITY QUESTIONS AT
17 MACON, BRANDED PRODUCTION BACK TO MACON PLANT -- TO THE
18 PETERSBURG PLANT?

19 A. I BELIEVE WE DID.

20 Q. IN PARAGRAPH 3 SUB 1, THERE IS A
21 SENTENCE THAT ENDS APPARENTLY IN THE WORD FLEMING?

22 A. YES.

23 Q. WOULD YOU READ THAT, PLEASE?

24 A. THE WHOLE SENTENCE?

25 Q. NO, JUST THE SENTENCE ENDING IN

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1 FLEMING.

2 A. "ONE CUSTOMER IN HIGHEST FLEMING."

3 A. YES.

4 Q. WHAT DOES THAT REFER TO?

5 A. THIS WAS WHAT JIM NELSON HAD TOLD ME

6 THAT THERE WERE NO LEGAL PROBLEMS AS FAR AS GPC WAS

7 CONCERNED.

8 Q. YOU MEAN TERMINATING THE LIGGETT

9 CONTRACT?

10 A. YES.

11 Q. THE NEXT LINE THERE SAYS, "TRADEMARK"

12 AND THEN THERE IS A WORD IN PARENTHESES?

13 A. YES.

14 Q. WHAT DOES THAT SAY?

15 A. EARNIE.

16 Q. SKIPPING ONE LINE THE NEXT WORD SAYS.

17 "BACK SOMETHING PLAN"?

18 A. "BACK-UP PLAN."

19 Q. WHAT DOES THAT REFER TO?

20 A. THIS WAS A CONCERN OF GPC THAT THERE

21 WOULD BE A BACK-UP PLAN IN SOME REGARD THAT I CANNOT

22 RECALL.

23 Q. SKIPPING DOWN 2 MORE LINES IN YOUR

24 NOTES IT SAYS 80 PERCENT AND WHAT'S THE NEXT --

25 A. FLOOP.

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1 Q. WHAT DOES THAT REFER TO?

2 A. I BELIEVE THAT WAS THAT THE GUARANTEE
3 BEING DISCUSSED AT THAT TIME WOULD BE BASED ON BROWN &
4 WILLIAMSON IF AN AGREEMENT WERE TO BE MADE,
5 MANUFACTURING AT LEAST 80 PERCENT OF WHAT THEIR CURRENT
6 VOLUME WAS WITH LIGGETT.

7 Q. OKAY. THAT'S NOT TO SUGGEST, IS IT,
8 THAT SOMEBODY ELSE WOULD MANUFACTURE GPC CIGARETTES?

9 A. NO.

10 Q. IS IT, RIGHT? I MEAN, BROWN &
11 WILLIAMSON WAS GOING TO MANUFACTURE WHATEVER GPC
12 CIGARETTES WERE GOING TO BE MANUFACTURED?

13 A. YES.

14 Q. PARAGRAPH 6 SAYS, "RAY PRITCHARD
15 CONCERNS."

16 A. YES.

17 Q. AND THE FIRST ONE IS PETERSBURG?

18 A. RIGHT.

19 Q. WHAT DOES THAT MEAN?

20 A. HE WANTED TO CLOSE PETERSBURG ON
21 SCHEDULE.

22 Q. AND HE WAS CONCERNED THIS MIGHT
23 CREATE A PROBLEM?

24 A. YES.

25 Q. AND THAT'S BECAUSE OF THE MAKING

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1 CAPACITY QUESTION?

2 A. YES. NOT EXACTLY THE MAKING CAPACITY,
3 IT WAS THE MOVEMENT OF INTERNATIONAL TO MACON AND ALL
4 THE PROBLEMS ASSOCIATED WITH IT.

5 Q. YOU MEAN THE GPC BEING MANUFACTURED AT
6 MACON WOULD TAKE UP CAPACITY THAT WOULD OTHERWISE HAVE
7 GONE TO INTERNATIONAL?

8 A. ADDED PROBLEMS WITH MANUFACTURE WITH
9 EVERYTHING THEY HAD ON THEIR PLATE IN TRYING TO MOVE A
10 CERTAIN BEST AT THAT TIME THAT THIS WOULD COMPLICATE IT.

11 Q. THE NEXT LINE ITEM SAYS, "FIELD SALES
12 FORCE" AND WHAT'S THE NEXT WORD?

13 A. "TIME."

14 Q. WHAT DOES THAT MEAN?

15 A. THAT MEANS THAT HE WAS CONCERNED THAT
16 THIS MAY TAKE UP FIELD SALES FORCE TIME.

17 Q. AND IS THAT THE SAME CONCEPT WHERE YOU
18 WROTE H.O. MANAGEMENT TIME?

19 A. YES.

20 Q. ON THE NEXT LINE?

21 A. YES.

22 Q. THE NEXT LINE SAYS, "PRICING STRATEGY
23 NO RUSH - ALL OUT FAVOR"; CORRECT?

24 A. YES.

25 Q. THAT WAS THE CONVERSE OF MR. NELSON'S
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1 CONCERN ABOUT THE DISPARITY IN SELLING PRICE BETWEEN
2 LIGGETT AND BROWN & WILLIAMSON; CORRECT?

3 A. YES.

4 Q. SKIPPING DOWN 2 LINES IT SAYS 2 AND
5 WHAT'S THE NEXT WORD?

6 A. "LUCRATIVE."

7 Q. FOR GPC?

8 A. YES.

9 Q. NEXT LINE SKIPPING ONE MORE LINE DOWN,
10 IT SAYS, "DON'T LIKE GUARANTEE."

11 A. YES.

12 Q. THAT'S A REFERENCE TO THE 5-YEAR TERM?

13 A. YES.

14 Q. THAT'S IN THE CONTRACT AS EXECUTED?

15 A. CONTRACT WAS NOT WRITTEN AT THIS TIME.

16 Q. RIGHT, BUT I MEAN YOU WERE DISCUSSING
17 A GUARANTEE WHICH EVOLVED IN THE CONTRACT INTO A 5-YEAR
18 TERM?

19 A. YES.

20 Q. AFTER YOUR MEETING WITH MR. SANDEFUR
21 AT WHICH YOU DISCUSSED THESE TOPICS FOR DISCUSSION --

22 A. YES.

23 Q. -- THAT ARE IN YOUR NOTES, WHAT STEPS
24 HAPPENED NEXT WHICH TO THE EVENTUAL EXECUTION OF THE GPC
25 BROWN & WILLIAMSON CONTRACT THAT YOU'VE IDENTIFIED?

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1 A. THERE WERE MORE PHONE CALLS BETWEEN
2 JIM NELSON AND MYSELF AND THEN ANOTHER MEETING WITH JIM
3 NELSON AT BROWN & WILLIAMSON IN LOUISVILLE.

4 Q. AND WHO ATTENDED THAT MEETING?

5 A. MYSELF, MR. SANDEFUR. I'M SURE PEOPLE
6 FROM OUR LAW DEPARTMENT, BUT I'M NOT SURE WHO
7 SPECIFICALLY WAS THERE.

8 Q. AND WHO WAS THERE ON BEHALF OF GPC?

9 A. MR. NELSON.

10 Q. HOW LONG DID THAT MEETING LAST?

11 A. APPROXIMATELY AN HOUR.

12 Q. DO YOU RECALL THE DISCUSSION?

13 A. YES. PARTS OF IT. WE NEGOTIATED THE
14 LICENSING FEE AND WE NEGOTIATED OTHER PARTS OF THE
15 GUARANTEE AND DECIDED THAT WE WOULD START DRAFTING A
16 CONTRACT.

17 Q. DURING THAT MEETING DID MR. NELSON
18 CALL MR. PEASE AT ALL?

19 A. I DON'T RECALL.

20 Q. LET'S MARK THIS AS HEGER 48 FOR
21 IDENTIFICATION.

22 (WHEREUPON, HEGER DEPOSITION EXHIBIT
23 48 WAS MARKED FOR IDENTIFICATION.)

24 A. YES.

25 Q. CAN YOU IDENTIFY THAT, SIR?
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1 A. YES.

2 Q. WHAT IS IT?

3 A. THAT'S THE CORPORATE PLAN THAT WAS
4 WRITTEN IN THE FALL OF 1985 FOR 1986, 1986 TO 1990.

5 Q. FOR BROWN & WILLIAMSON?

6 A. YES.

7 Q. DO YOU RECALL WHETHER IN THE SUMMER OF
8 1984 IT WAS REQUESTED BY MR. PEBBELS THAT ALL WRITTEN
9 MATERIALS DEALING IN ANY WAY WITH GENERIC CIGARETTES
10 MUST FIRST BE REVIEWED WITH BART FREEDMAN?

11 MR. KLOTZ: OBJECT. AND LET ME HAVE A
12 MINUTE TO THINK ABOUT THAT. OBJECT TO THE FORM AHEAD
13 AND ANSWER.

14 A. NO. I DON'T RECALL THAT.

15 Q. OKAY. I'M NOT GOING TO MARK THE REST,
16 PART OF WHICH IS A MEMORANDUM THAT YOU DISCUSSED ON THE
17 (DISCUSSION OFF THE RECORD.)

18 Q. LET ME SHOW YOU 2 PAGES STAMP NUMBER
19 251856 AND -- SORRY, ONE PAGE 251856?

20 MR. KLOTZ: IS THIS MARKED?

21 Q. IT'S GOING TO BE.

22 (WHEREUPON, HEGER DEPOSITION EXHIBIT
23 49 WAS MARKED FOR IDENTIFICATION.)

24 A. OKAY.

25 Q. DID YOU RECEIVE A COPY OF THAT

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1 DOCUMENT?

2 A. YES.

3 Q. AND DIRECTING YOUR ATTENTION TO THE
4 SECOND PARAGRAPH?

5 A. YES.

6 Q. DOES THAT REFRESH YOUR RECOLLECTION?

7 A. YES.

8 Q. THAT IN CONNECTION WITH A GATHERING
9 OF INFORMATION FOR THE LITIGATION WITH LIGGETT & MYERS
10 AGAINST BROWN & WILLIAMSON ALL WRITTEN MATERIALS DEALING
11 IN ANY WAY WITH GENERIC CIGARETTES MUST BE REVIEWED BY
12 BART FREEDMAN?

13 A. YES.

14 Q. AND AS PART OF THOSE INSTRUCTIONS
15 THERE ARE ALSO TO MARK AT THE TOP OF EACH PAGE THE
16 NOTATION THAT IT WAS, "PRIVILEGED - INFORMATION PREPARED
17 FOR USE OF AND AT THE REQUEST OF COUNSEL."

18 A. YES.

19 Q. AND WAS IT YOUR UNDERSTANDING BY SO
20 MARKING THOSE DOCUMENTS THEY WOULD NOT BE SUBJECT TO
21 DISCOVERY IN THIS LAWSUIT?

22 MR. KLOTZ: OBJECT TO THE FORM.

23 A. NO, I DON'T RECALL THAT.

24 Q. LET ME SHOW YOU A DOCUMENT MARKED
25 HEGER EXHIBIT 50 FOR IDENTIFICATION.

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1 (WHEREUPON, HEGER DEPOSITION EXHIBIT
2 50 WAS MARKED FOR IDENTIFICATION.)

3 A. OKAY.

4 Q. HAVE YOU SEEN THAT DOCUMENT BEFORE?

5 A. I SEE I WAS GIVEN A COPY OF IT. I
6 DON'T RECALL THE DOCUMENT. SORRY.

7 Q. THE HANDWRITTEN NOTATION ON THE
8 RIGHT-HAND SIDE IS MR. BACON'S HANDWRITING?

9 A. YES, IT IS.

10 MR. KLOTZ: THIS IS A DOCUMENT THAT I
11 WILL SAY, AT LEAST AS TO THE HANDWRITTEN PORTION, WAS
12 PRODUCED INADVERTENTLY JUST SEVERAL DAYS AGO. THE
13 CONVERSATION THAT I HAD WITH MR. BARKER AND MR.
14 RASMUSSEN OF YOUR OFFICE CONCERNED A GROUP OF DOCUMENTS
15 THAT WERE PRODUCED THEN, AND I'M GOING TO ASK YOU NOT TO
16 ASK ANY QUESTIONS, YOU CAN ASK WHATEVER QUESTIONS --

17 MR. TOPMAN: YOU'RE GOING TO INSTRUCT
18 HIM NOT TO ANSWER?

19 MR. KLOTZ: I'M GOING TO INSTRUCT HIM
20 NOT TO ANSWER ABOUT THE HANDWRITTEN PORTION OF THE
21 DOCUMENT. IT SHOWS ON ITS FACE IT'S A COMMUNICATION TO
22 MR. FREEDMAN.

23 MR. TOPMAN: YOU ARE INSTRUCTING HIM
24 ON THE GROUNDS THE COMMUNICATION IS COVERED BY THE
25 ATTORNEY CLIENT PRIVILEGE THOUGH?

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1 MR. KLOTZ: ATTORNEY CLIENT OR WORK
2 PRODUCT.

3 MR. TOPMAN: WELL, IT'S NOT WORTH
4 BELABORING. YOU KNOW THERE IS A WAIVER ARGUMENT BUT
5 IT'S LATE.

6 MR. KLOTZ: I UNDERSTAND WHAT THE --

7 MR. TOPMAN: SO WITHOUT PREJUDICE TO
8 MAKING THAT ARGUMENT, I WILL NOT PRESS IT ANY FURTHER.

9 THANK YOU, MR. HEGER.

10 THE ONLY THING I NEED TO SAY IS THAT I
11 LEAVE THE DEPOSITION OPEN BECAUSE IN MY VIEW THERE ARE
12 STILL OUTSTANDING DOCUMENTS.

13 MR. KLOTZ: YOU HAVE MY VIEW ON THE
14 QUESTION ON WHETHER THERE ARE OUTSTANDING DOCUMENTS.

15 * * * * *

16 (WHEREUPON, THE DEPOSITION WAS THEN
17 CONCLUDED AT THE HOUR OF 6:30 P.M.)

18
19
20
21
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I, THE UNDERSIGNED, CARL HEGER, DO HEREBY
CERTIFY THAT I HAVE READ THE FOREGOING DEPOSITION AND
THAT, TO THE BEST OF MY KNOWLEDGE, SAID DEPOSITION IS
TRUE AND ACCURATE (WITH THE EXCEPTION OF THE FOLLOWING
CORRECTIONS LISTED BELOW):

CARL HEGER

824 20677

098

STATE OF _____

COUNTY OF _____

BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC WITHIN
AND FOR THE ABOVE-NAMED COUNTY AND STATE, ON THE _____
DAY OF _____, 1986, PERSONALLY APPEARED
CARL HEGER AND ACKNOWLEDGED THE EXECUTION OF THE
FOREGOING DOCUMENT.

MY COMMISSION EXPIRES _____

824 20678

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STATE OF KENTUCKY

COUNTY OF JEFFERSON

WE, CATHERINE M. PATEN AND ALICE TANNENBAUM,
NOTARY PUBLICS WITHIN AND FOR THE STATE AT LARGE
AFORESAID, DO HEREBY CERTIFY THAT THE FOREGOING IS A
TRUE, CORRECT AND COMPLETE TRANSCRIPT OF THE DEPOSITION
OF CARL ROEDER, TAKEN AT THE TIME AND PLACE SET OUT IN
THE CAPTION, INCLUDING OBJECTIONS AND REMARKS OF
COUNSEL; THAT THE DEPOSITION WAS TAKEN PURSUANT TO
NOTICE; THAT THE SAID WITNESS WAS DULY SWORN BEFORE
GIVING HIS DEPOSITION; THAT THE APPEARANCES WERE AS SET
OUT IN THE CAPTION HEREOF; THAT THE SAID DEPOSITION WAS
TAKEN DOWN BY US IN STENOTYPY AND AFTERWARDS TRANSCRIBED
ON A COMPUTER UNDER OUR DIRECTION; THAT A REQUEST WAS
MADE BY COUNSEL THAT THE DEPOSITION BE SUBMITTED TO THE
WITNESS FOR READING AND SIGNATURE.

I FURTHER CERTIFY THAT WE ARE NEITHER ATTORNEY
OR COUNSEL FOR, NOR RELATED TO OR EMPLOYED BY ANY OF THE
PARTIES TO THE ACTION IN WHICH THIS DEPOSITION IS TAKEN,
AND FURTHER; THAT WE ARE NOT A RELATIVE OR EMPLOYEE OF
ANY ATTORNEY OR COUNSEL EMPLOYED BY THE PARTIES HERETO,
OR FINANCIALLY INTERESTED IN THE ACTION.

GIVEN UNDER MY HAND AS NOTARY AFORESAID, THIS

824 20679

CONFIDENTIAL MINNESOTA TOBACCO LITIGATION

300

THE 25TH DAY OF AUGUST, 1986.

MY COMMISSION EXPIRES APRIL 2, 1987.

CATHERINE M. PATEN, C.P., C.M.
COURT REPORTER AND NOTARY PUBLIC
STATE OF KENTUCKY AT LARGE

ALICE TANNENBAUM, C.P., C.M.
COURT REPORTER AND NOTARY PUBLIC
STATE OF KENTUCKY AT LARGE

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